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P R O C E E D I N G S

DEPARTMENT OF LABOR AND INDUSTRIES
PUBLIC HEARING
ERGONOMICS

Howard Johnson Plaza Hotel
Orcas Room
3105 Pine Street
Everett, Washington

DATE: January 6, 2000
REPORTED BY: Wade Johnson, RPR
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PATRICE STARKOVICH REPORTING SERVICES
(206) 323-0919

A P P E A R A N C E S

DEPARTMENT OF LABOR AND INDUSTRIES STAFF IN ATTENDANCE:

MR. MICHAEL WOOD - Program Manager

MR. SELWYN S. WALTERS - Rules Coordinator

MR. TRACY L. SPENCER - Program Manager

MR. JOHN PEART - Industrial Hygienist

DR. MICHAEL SILVERSTEIN - Assistant Director for Workplace
Safety and Health

MR. RICK GOGGINS - Ergonomist

MR. JOSHUA J. SWANSON - Administrative Regulations
Coordinator

MS. JENNY HAYS - Safety and Health Specialist

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1 EVERETT, WASHINGTON; THURSDAY, JANUARY 6, 2000

2 1:50 P.M.

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6 THE ASSEMBLY OF THE PUBLIC HEARING, regarding Ergonomics,
7 convened, Mr. Selwyn
8 Walters and
9 Mr. Michael Wood,
10 presiding,

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12 * * *

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14 O P E N I N G C O M M E N T S

15 MR. WALTERS: Good afternoon, ladies and
16 gentlemen. My name is Selwyn Walters, and I am the Agency
17 Rules Coordinator, and with me is Michael Wood, the Senior
18 Program Manager for Policy and Technical Services for
19 WISHA.

20 I now call this hearing to order. And this is a
21 public hearing being sponsored by the Department of Labor
22 and Industries.

23 For the record, this hearing is being held on
24 January 6th, 2000, in Everett, Washington, beginning at
25 1:50 p.m., and is authorized by the Washington Industrial

1 Safety and Health Act, as well as is the Administrative
2 Procedure Act.

3 Once the formal hearing is closed, staff will be
4 available for additional questions. If you have not
5 already done so, you should fill to out the form and the
6 sign-in sheets located at the back of the room. This sheet
7 will be use today call you forward, as well as to let you
8 know the results of the hearing.

9 For those of you who have written comments that
10 you would like submitted, please give them to Jenny Hays or
11 Cheryl Moore at the back of the room. They're waiving
12 their hands at you.

13 We will accept written comments until 5 p.m. on
14 February 14th, 2000, for those of you who are unable to
15 submit comments today. You should send your comments to
16 WISHA services at the Department of Labor and Industries
17 Post Office Box 44620, Olympia, Washington, and the zip is
18 98504. Or you may e-mail your comments to ergorule --
19 that's one word, e-r-g-o-r-u-l-e -- at lmi.wa.gov, or you
20 may fax your comments to us at area code (360) 902-5529,
21 but please remember to keep your faxed comments to ten
22 pages or less.

23 The court reporter for this hearing is Wade J.
24 Johnson of Starkovich Reporting. Transcripts of the
25 proceedings should be requested and are available from the

1 court reporter service. Also, copies of the transcript
2 will be available on the WISHA home page, and the address
3 for that home page is www.lni.wa.gov backslash WISHA
4 backslash ergo.

5 AUDIENCE MEMBER: Could you do that a little
6 slower?

7 MR. WALTERS: Yes, www.lni.wa.gov, backslash
8 WISHA, w-i-s-h-a, backslash ergo, e-r-g-o. The web page
9 will not be available for another three weeks.

10 Any request for copies of the written transcript
11 submitted to the Agency will be forwarded to the court
12 reporter, and I would like to let you know that the
13 reporter does charge for the transcripts.

14 Notice of today's hearing was published in the
15 Washington State Register in Volume 99-23-067, and that was
16 published on December 1st and December 15th of 1999.

17 Hearing notices were also sent to interested
18 parties. And in accordance with the Industrial Safety and
19 Health Act, RCW 19.17.040, notice was also sent and
20 published 30 or more days prior to this hearing in the
21 following newspapers: The Journal of Commerce, The
22 Spokesman Review, The Olympian, Belling Herald, The
23 Columbian, The Yakima Herald-Republic, and the Tacoma News
24 Tribune.

25 Today's hearing is being held to receive oral and

1 written testimony on the proposed rules.

2 Any comments received today, as well as written
3 comments received will be presented to the Director. Prior
4 to starting today's formal proceedings, an oral summary of
5 the proposed rules was given by Mr. Michael Silverstein.

6 Please refer to the handout provided to you at
7 the door for a copy of the proposed rule. A copy of this
8 handout is located at the sign-in table if you did not
9 receive one. At the back of the table, also, is an
10 analysis of the economic impact of the rule.

11 As you can see, there are several folks who are
12 here to testify today, and we would like you to limit your
13 testimony to seven minutes. Now, you shouldn't feel
14 compelled to use the entire seven minutes. If time
15 permits, we will allow for additional testimony to be given
16 after everyone has had an opportunity to speak.

17 Please keep in mind that we have allowed for a
18 full month to receive written comments, the cutoff date
19 being February 14th, 2000.

20 I'd like to remind you that this is not an
21 adversarial hearing, and we will not permit
22 cross-examination of the speakers; however, Michael and
23 myself may ask clarifying questions.

24 In fairness to all parties, I ask your
25 cooperation by not applauding or verbally expressing your

1 reaction to testimony being presented. If we observe these
2 few rules, everyone will have the opportunity to present
3 their testimony and help the Agency to consider all
4 viewpoints in making a final decision.

5 * * *

6 O R A L T E S T I M O N Y

7 We will call panels of three, and I will also let
8 you know after the first panel what the next panel is going
9 to be. So, the first three are Bob Monize, Gayle Eversole,
10 and William Charney. Forgive me for butchering your names,
11 but when you come up, would you please restate your name,
12 spelling your last name and if necessary your first name,
13 also.

14 MR. WOOD: You can come forward now.

15 MR. WALTERS: And after that panel is
16 finished, Chuy Pema, Julia Weinberg, Paul O'Bernier, Doug
17 Sanders, Mike Sells, and Antonio Bohan should prepared to
18 testify. So, at this time, we would like to take oral
19 testimony, so would Mr. Monize, Gayle Eversole, and William
20 Charney please come forward.

21 Is William Charney here?

22 Gayle Eversole?

23 MR. MONIZE: My name is Bob Monize,
24 M-o-n-i-z-e. I'd like to go on record that I'm for this
25 rule. And for all the people that are against it,

1 employers or employer representatives or whoever, I would
2 like to offer this following scenario:

3 Approximately, 39 years ago I first worked in a
4 lumber mill that required no ear protection, no safety
5 equipment, or anything like it. Since 1964, I also worked
6 in the construction field, which, at that time, didn't
7 require any safety protection for ears or falling or even
8 confined space or rigging in ditches or anything like that,
9 any safety protection, whatsoever. Through the years
10 people got killed because of this, and the more people that
11 got killed, the more regulations that came in.

12 This is good rule, even though it's ambiguous, I
13 imagine, for the employers, but I think the intent of the
14 rule is good, and if it saves one life, it's worth it. But
15 I'd like to caution that every job and every individual is
16 different.

17 So, I only can speak on the back, lower back pain
18 right now. Because of what I've done in the past, I have
19 to sleep on the floor, and when I get up, I hurt. And if I
20 stay in a couch or stay in a chair for too long, I have to,
21 when I get up it hurts. Because, mainly, at that time,
22 when I was working you had to work or you were laid off,
23 and there was no exception, they got somebody else to do
24 it. And that's about it. Thank you.

25 MR. WOOD: Thank you.

1 Mr. Charney.

2 MR. CHARNEY: My name is William
3 C-h-a-r-n-e-y. I'm here today representing I think most
4 succinctly the epidemic of healthcare worker injury in the
5 State of Washington and also the national epidemic.

6 Healthcare workers rank fifth nationally and
7 third in the State of Washington for back injuries on the
8 job. Twenty percent of freshman nurses leave the job
9 because of back injury.

10 In 1995, the national data show that private
11 industry, nonhealthcare had 69 workers injured for 10,000
12 workers; hospitals had 144, per 10,000 workers; and nursing
13 homes had 320 injuries per 10,000 workers. In the last ten
14 years, home healthcare and nursing home injuries have
15 doubled in this state and nationally, and in hospitals back
16 injuries have risen by 40 percent. It's definitely an
17 epidemic.

18 I am certainly for this legislation, with some
19 criticisms and some suggestions and recommendations. The
20 good news, before I get to my criticisms and
21 recommendations, is that ergonomic problems in healthcare
22 do work. I have three peer review studies that show that
23 lifting teams in healthcare reduce injury rates by
24 phenomenal results. And the use of mechanical equipment,
25 the mandatory use of mechanical equipment in healthcare,

1 will also reduce these injuries by orders of magnitude.

2 That's the good news.

3 My criticisms are that I don't think this
4 particular piece of legislation singles out healthcare
5 specifically enough in this standard. I think there needs
6 to be a closer definition as to moving patients is
7 definitely a cause, causation for ergonomic injury in
8 hospitals. So, I would like to see more language
9 specifically designed to healthcare.

10 Secondly, there seems to be, to me, a little bit
11 of a contradiction of allowing the employer to define what
12 is a caution zone job. That's like putting the -- almost
13 putting the fox in charge of the chicken coop. I would
14 like to see that modified or amended in such a way that
15 there is some form of a check or an associated check on the
16 verification of the caution zone definitions and who
17 actually has the final declarative say so on what is a
18 caution zone job.

19 I would like to see some more prescriptive
20 language in the legislation that, for example, in
21 hospitals, the nine manual lifts, the nine most common
22 manual lifts all exceed the NIOSH guidelines of lifting and
23 even the upper limits of lifting by orders of magnitude,
24 and some of them get into the 6,400 newtons of force range,
25 which is the microfracture range. And I think there should

1 be some prescriptive language in the legislation that
2 designates mechanical lifting equipment instead of manual
3 lifts for not only healthcare but other industries that
4 have heavy or repetitive lifting. It should not be done
5 manually.

6 Other than that, I would like to say that it has
7 been my experience that ergonomic programs in 95 percent of
8 the time that I have dealt with them in my experience in 20
9 years in healthcare, and my colleagues have also shown this
10 in other studies of ergonomic interventions, they are a
11 cost benefit. They will always yield a result.

12 Lifting teams pay for themselves, specifically,
13 just in if you look at -- and we are studying this now in
14 one of the newer studies we're doing -- if you just look at
15 the amount of sick time you save pre lift teams and post
16 lift teams, the amount of sick time you save by this
17 particular intervention will pay for the ergonomic
18 intervention, as of hiring the lifting teams.

19 So, that's it.

20 MR. WALTERS: Michael has a question for
21 you.

22 MR. WOOD: You referenced several peer
23 review articles. If you know them now, if you could
24 provide more specific references?

25 MR. CHARNEY: I have copies for you.

1 MR. WALTERS: If you can provide them for
2 the record.

3 MR. CHARNEY: Who should I give them to?

4 MR. WALTERS: Jenny Hays, who has her hand
5 up.

6 MR. WALTERS: Chuy Pema, Julia Weinberg,
7 Paul O'Bernier. And then Doug Sanders, Robin Hall, and
8 Mike Sells should be prepared to come forward.

9 MR. CHUY: As you heard, my name is a Chuy
10 Pena, P-e-n-a. I represent Local 194 of the AWPPW in
11 Bellingham, Washington.

12 I am more or less of an -- I am in support of the
13 proposal. I want to appeal to people's conscience of what
14 we're doing here, in that knowingly injuring employees.

15 I've been at Georgia Pacific in Bellingham for 20
16 years, and in this time, I have seen, including myself,
17 many, many employees injured unnecessarily. Nine years ago
18 I decided to become proactive in ergonomics, and I am the
19 sole representative of Georgia Pacific in Bellingham of 850
20 employees doing ergonomics, trying to do this while I'm
21 working 12 hours on my regular shift.

22 I'm thinking about a little story that somebody
23 told me about. Years ago when the Pony Express was in
24 effect and this gentleman was observing how they did this
25 process. And the rider jumped on a horse and went for many

1 miles and got a fresh horse and went for many more miles
2 and jumped on another fresh horse. And this guy goes up to
3 the boss and says, "Hey, you know, what's the deal here?
4 How come, you know, you keep changing horses, but you're
5 not changing riders?" And the guy says, "Well, you know,
6 horses are \$2 a piece."

7 Well, you know, I know we've come a long way, but
8 in a sense, we have much further to go, because, you know,
9 in some instances, I still see the same thing going on, you
10 know, where we need a piece of equipment that needs to be
11 either changed or, you know, modified or in one form or
12 another, and the unwillingness to do it is atrocious
13 because of the injuries that are occurring to these
14 employees. And it's something that, if you really look at
15 these problems, are a minimal expenses that can be -- would
16 be put out by the companies in order for a modification to
17 be done and for employees to go home injury-free.

18 Now, I am grateful to the company that I work for
19 the education participation that they've allowed the
20 employee involvement in a lot of these processes concerning
21 ergonomics and so on. Unfortunately, we need to keep on
22 keeping on and move forward and not drop the ball at this
23 point.

24 I urge this panel and everyone here to move
25 forward in this proposal so that someday all workers can

1 look forward to going home injury-free and knowing that
2 when they come to work, the environment is a safe place to
3 be.

4 Retirement for myself, it's not that far off, you
5 know, I can almost taste it. And I'd like to be able to
6 retire where I'm healthy and be able to enjoy the rest of
7 my years without having any CTDs, or those sort of problems
8 that many employs at the complex where I work at are
9 sustaining every day.

10 I don't understand what happens sometimes when we
11 all come from families with loving brothers and sisters,
12 mothers, fathers, so on. And what would we do if somebody
13 would injure one of our brothers or knowingly, forcefully
14 injured physically one of our brothers or sisters, our
15 mothers, our fathers? What would we do? Would we stand by
16 and just do nothing about it?

17 Well, this is happening every day at our jobs,
18 and what happens to us, when we leave our homes and we hug
19 our wives and we hug our children -- you know, in my case,
20 my wife -- and we hug our children and so on, we tell them
21 we love them, we feel this in hour hearts and so on, and
22 then we get to work and somehow or another something
23 changes.

24 And all of the sudden we don't care about each
25 other. All of the sudden, you know, we see this going on

1 day in and day out, and we look the other way. It doesn't
2 seem to hit us. What happened to that love and that
3 understanding that we have when we were still in our
4 homes? And now all the sudden, you know, we're faced with
5 whatever the situation is at work. I don't understand it.

6 You know, if somebody understands what happens to
7 the people that that can make this changes happens, you
8 know, what happens to them? What happens to the heart?
9 What happens to the love and the understanding?

10 And in closing, I'd just like to say that, you
11 know, we all need to get involved even more than we are
12 here today in making this proposal be a reality.

13 Thank you very much.

14 MR. WALTERS: Thank you.

15 Ms. Weinberg. Pull the mike to you.

16 MS. WEINBERG: Good afternoon, my name is
17 Julie Weinberg, W-e-i-n-b-e-r-g. And I am a registered
18 nurse, and I'm here representing Washington State Nurses
19 Association.

20 The Washington State Nurses Association is both a
21 professional association and a union representing the
22 health policy, nursing practice, and workplace concerns of
23 more than 11,000 RNs in the State of Washington, the
24 majority of whom work in hospitals, for which I work in a
25 hospital, nursing homes, and home health agencies.

1 I am here to testify in support of the new
2 ergonomics rule proposed by the Department of Labor and
3 Industries.

4 I've been a registered nurse for over 17 years.
5 Prior to that, I was a certified nursing assistant for over
6 ten years. So, I've been in this healthcare professions
7 for a good part of my life, and I have been very concerned
8 about many of my -- several patients that I have lifted
9 throughout the many years of my career.

10 And at this point, I don't have a debilitating
11 back injury, but I can tell you that I do have aches and
12 pains that I go home with every day, and it's difficult for
13 me to get up sometimes in the morning. Unfortunately, I do
14 know many nurses who have sustained career-ending back
15 injuries and other work-related musculoskeletal disorders.

16 Back injuries and other ergonomic injuries are
17 the most common work related injuries suffered by
18 registered nurses in all settings and account for untold
19 pain and suffering, hundreds of thousands of dollars in
20 medical care and thousands of hours of lost work time.

21 Nationally, in all industries combined, 8 1/2 out
22 of 100 workers reported nonfatal occupational injuries and
23 illnesses. However, nearly 12 out of 100 nurses and
24 hospitals even reported work related injuries. And 17.3
25 out of 100 nurses working in nursing homes have reported

1 injuries, double the rate for all injuries combined. The
2 vast majority of these nurse injuries are back injuries.

3 Back injuries are mainly caused by lifting
4 unreasonable loads. Ninety-eight percent of the time,
5 nurses lift patients manually. For nurses, the most
6 stressful task involve the transferring of patients from a
7 bed to a chair and more so returning to a bed. You may
8 even have a patient go down on you in that transfer, and
9 that is very stressful.

10 The National Institute of Occupational and Health
11 says that a 51-pound stable object with handles is the
12 maximum amount that anyone should routinely lift. Our
13 patients are unpredictable human beings, not stable objects
14 with handles. Lifting patients under the armpits places
15 excessive forces not only on the patient, but also on that
16 person who's lifting them, from 1 1/2 to 2 times the
17 maximum physical load for human lifting.

18 Registered nurses and other nursing personnel
19 especially those working in state hospital facilities,
20 nursing homes, and home health settings, where assistive
21 lifting devices and support staffing are often in short
22 supply are particularly vulnerable.

23 WISHA's own statistics identify eight hospital
24 facilities and nursing homes among the top 20 employment
25 settings for incidents of back injuries in Washington

1 State. As the average age of the registered nurse
2 population continues to grow older -- currently it's 45,
3 and I'm 43 -- and the acuity, the age, and the physical
4 needs of the patients that we care for increases, these
5 types of injuries are likely to become increasingly more
6 serious, costly, and difficult to treat.

7 Workers in Washington are entitled to a safe work
8 environment. While some employers are currently taking
9 steps to prevent workplace injuries, such as providing
10 lifting teams, lifting devices, and frequent training, we
11 need this rule to ensure that all employers comply and
12 address these hazards.

13 Companies which have taken steps to prevent
14 injuries report substantial success in reducing the number
15 and severity of injuries. They also experience other
16 benefits, such as improved conduct, enhanced morale, and
17 reduced absenteeism.

18 I also applaud my facility who has taken the time
19 to train us on appropriate lifting. They've also bought
20 lifting devices. They have a program for getting people
21 back to work who have sustained injuries, and they've put
22 them on light duty, so that they are at least contributing,
23 even though they may not be doing their routine jobs. But
24 they did that after realizing that people were getting
25 hurt, but yet they needed to have those people back to work

1 as soon as possible. So, I really appreciate them for
2 having done that.

3 Washington State Nurses Association believes that
4 WISHA's proposed rule is a much needed step in the right
5 direction, and it's far better than the proposed national
6 OSHA standard, in that it takes a preventive approach to
7 addressing the problem of work related musculoskeletal
8 injuries, rather than levying citations and fines after the
9 fact.

10 We believe that the phase-in period included in
11 the implementation plan is more than generous and will
12 allow the development of what is truly needed, an
13 industry-wide prevention program that includes data-driven
14 employer guidelines and education to support compliance
15 with the proposed OSHA and NIOSH ergonomic standards,
16 standardized guidelines for lifting and transferring
17 patients, training for managers and healthcare personnel on
18 proper technique used in maintenance of equipment and
19 access to appropriate assistive devices.

20 Additionally, continued research that
21 demonstrates the effectiveness of such prevention programs
22 and ongoing development and evaluation of other strategies
23 are needed. This I'd like to say, that we can't just stop
24 here, but this is a beginning for us, and we really
25 appreciate that.

1 While some employers may argue that it is
2 unnecessary and costly to implement this program, I would
3 like to argue that it is more costly for the workers, the
4 state, and the citizens of Washington if we do not
5 implement this program. Nurses who care for the most ill
6 and vulnerable among us deserve the protection of this
7 important ergonomic standard.

8 In conclusion, on behalf of all registered nurses
9 in this state, I would like to applaud the Department of
10 Labor and Industries and the proposed rule. Workers in
11 Washington are entitled to a safe working environment, and
12 we thank you for very much for the opportunity to speak to
13 you about it today.

14 MR. WALTERS: Thank you.

15 Mr. O'Bernier.

16 MR. O'BERNIER: I am Paul O'Bernier. I
17 represent AWPPW Local 183.

18 I have been working in the ergonomic field for
19 the lasts 15 years. Our union and Kimberly Clark work
20 together as a team. I've seen ergonomics works in many,
21 many situations. Kimberly Clark has been proactive in this
22 field and have made many different fixes on the jobs, and
23 they believe that they all work.

24 But today I'd like to limit my comment to one
25 thing that is asked on here, the public comment, "Should

1 the rule require greater employee participation -- employee
2 participation, such as employees selecting or electing
3 their own representatives?"

4 Now, it says, "Employees with 11 or more --
5 Employers with 11 or more employees who are required to
6 have a safety committees must involve this committee in
7 choosing the method to be used for employee participation.
8 Employers who are not required to have a safety committee
9 must provide this information at safety meetings: The
10 requirements of the rule; identifying caution zone jobs;
11 results of hazard analysis; and measures to reduce
12 hazards. This review must include members of the safety
13 committee, where one exists, or ensure an equally effective
14 means of employee involvement."

15 Now, I don't know what that means, "Ensure an
16 equally effective means of employee involvement." You're
17 asking here, do we think that employees should elect their
18 own representatives? I think they should, even if we only
19 have -- do not have a safety committee on that job. I
20 think people throughout the state are going to have more
21 faith in this law.

22 I can just see some kind of an employers picking
23 out whoever they want to go ahead and give the training to
24 and analyze these caution jobs. I think whoever
25 constitutes the work force, they should be able to elect

1 their own people that they want to analyze those jobs. I
2 think that's a real important issue. Thank you.

3 MR. WALTERS: Thank you. Doug Sanders,
4 Robin Hall, and Mike Sell. And after this panel, we'll
5 take a ten-minute break. And after the break, Antonio
6 Bohan, Irene Rene Corlis, and Margie West, I think should
7 be prepared to come forward.

8 Doug Sanders.

9 MR. SANDERS: My name is Doug Sanders,
10 S-a-n-d-e-r-s. I have been a practicing safety
11 professional for -- this will be my 24th year. I have
12 worked with organizations that have worked a million hours
13 without loss time accidents, have been recognized by the
14 Department for such performance.

15 And I have spent the last ten years as a salaried
16 consultant to a workers' compensation third-party
17 administrator Johnston & Culberson. In my duties with
18 them, I have visited had a number of employers on a nearly
19 monthly basis for a period of over ten years. I've seen
20 these employers bought, sold. I've seen my contacts come,
21 go, replaced, but I've spent a lot of time with them.

22 I review hundreds of statistics each year for
23 these employers, looking at patterns of losses that they've
24 had. Since this standard has come out, I have met with a
25 bottler, a lumber mill, a specialty mill, a transit

1 organization, two school districts, a department store
2 chain, a farm, contractors, a large custodial organization,
3 hospital, nursing home, light manufacturer, and a
4 distribution warehouse and probably some others to go over
5 this proposed standard and see how they take it and
6 interpret it.

7 I very much favor ergonomics. I very much favor
8 accident prevention and believe our society is best served
9 by not having accidents, both the employers and the
10 employees, but while the employers pay for it with dollars,
11 the labor pays for it with their bodies.

12 And although it may not sound like it, I very
13 much support an ergonomic approach to help prevent these.
14 I do not favor the Labor and Industries' proposed ergonomic
15 approach. I do not believe it will do what Labor and
16 Industries suggests it does. I base this upon Labor and
17 Industries' history over the last 25-plus years since the
18 WISHA Act was implemented.

19 One measure of the effectiveness of these rules
20 and regulations in this approach of preventing accidents
21 has been in the OSHA recordable rates, which have been
22 maintained federally for decades. The rate of accidents
23 was declining at the time WISHA came about and continued to
24 decline until the early 1980s. In the last 20 years, there
25 has not been a decline in this rate. During this time, I

1 believe that we have, and it's a guess, but we have more
2 than doubled the volume of regulations, but the bottom line
3 is the rate of accidents has not been decreasing.

4 And here in Washington where we have prided
5 ourselves for doing it our way, a better way, a more
6 involved way, with a higher proportion of compliance
7 officers and newer and more personal regulations than what
8 the federal government has done, our rate of OSHA
9 recordables has year after year for the last 25 years been
10 20 to 30 percent higher than what the federal average has
11 been.

12 I ask the labor organizations here that, while
13 ergonomics may sound good, to ensure that it is proven to
14 work, that this approach will reduce accidents in fact.
15 Year after year, I get touted statistics about how good
16 we've done, how many inspections we've done, but the bottom
17 line numbers, were still getting hurt at the same rate we
18 were 20 years ago.

19 One reason I don't think this will work I think
20 is already evident. The self-insured organizations make
21 up, approximately, 400 of the 160,000 businesses in this
22 state. That's one quarter of one percent, yet they are the
23 employers for, approximately, one-third of the work force.

24 These tend to be larger organizations, profitable
25 organizations, pretty well run organizations, with safety

1 people, industrial hygiene, and some even have ergonomists
2 on board. And for the last number of years, many
3 organizations in this community have been working on
4 ergonomics.

5 And yet despite this, we see the statistics that
6 have been presented before us, which suggested that a third
7 of all accidents are work related musculoskeletal disorders
8 and can be addressed with this standard. And together the
9 self-insureds with the tens of thousands of State Fund
10 employers who have put together, put in place ergonomic
11 remedies, your after accidents and beforehand, you would
12 expect there already to be an impact on the frequency and
13 percentage of ergonomic injuries, and we just haven't seen
14 it with the statistics.

15 And, again, I ask labor in particular to ensure
16 that this standard has an impact or cease to support it and
17 look for alternatives that work.

18 Dr. Silverstein in no way, no place, no how, has
19 suggested that this is going to reduce work related
20 musculoskeletal disorders by "x" amount. And even though
21 the Department does not have the authority to control
22 businesses, certainly you would expect that such a
23 powerful, touted standard would have had a definable,
24 measurable impact and almost immediately when it goes into
25 effect.

1 In reviewing the Small Business Economic Impact
2 Statement, I am troubled again and again and again by the
3 statistics and data that I viewed. We do not have the time
4 today to talk in great detail about it, but I feel that the
5 data is incredibly skewed.

6 One area that I think it is skewed is in using
7 workers' comp data. The definition of a workers' comp
8 injury is, in part, that it must, on a more probable than
9 not basis, have occurred at work, as determined by the
10 doctor. And that is a tad bit more than a 50 percent
11 chance it occurred at work. I don't want to change that,
12 but the Department then utilizes that data to suggest that
13 these are directly work related.

14 The body has a huge amount of connective tissue,
15 bones and muscle. In fact, once you get below the neck, it
16 is hard to go beneath the skin without having an injury to
17 these organs. And despite the proposed -- the Department's
18 effort to remove those WMSDs associated with trauma, I do
19 not believe that they have done this in effective measure.
20 I do not believe a third of the workers' comp claims are,
21 in fact, ergonomic related as is hoped here.

22 Inclusion of back injuries very much skews the
23 data especially of financial data. I deal with a large
24 variety of organizations, and in every one, except the
25 rarest of cases, back injuries leads the way. This

1 includes school districts, department stores, manufacturing
2 sites, but time and time again, it is the back injuries
3 that lead the way. It is so rare for back injuries not to
4 be the most common injury that I very much study those that
5 statistics where that occurs.

6 There's several problems with the proposed
7 standard. It doesn't target the bad guys; it targets
8 everybody. And by the Department's own Ergo Survey I,
9 two-thirds of the respondents could not report that they
10 had employees with WSMDs in the previous three years. Why
11 should they be subject to the burdens of this standard?

12 It doesn't deal with the concept of dose. If an
13 employer is exposed to a caution zone job once a year or
14 for a week a year, that is not going to have the same
15 physiological impact to that employee as an exposure over a
16 daily, weekly, yearly, career basis does.

17 The OSHA versus WISHA difference. Historically,
18 when OSHA and WISHA have had similar standards, WISHA has
19 let OSHA promulgate the standards to make it easier for
20 businesses to apply a safety program on a national basis,
21 rather than to do it this way in this state and that way in
22 that state and this way in another state.

23 I think, in summary, I very much support
24 preventing accidents. I support an ergonomic approach to
25 doing that. Based on the historical model that is

1 currently being used to put forth this standard, I do not
2 believe it will be effective, certainly not to the extent
3 it tends to be touted.

4 Thank you.

5 MR. WALTERS: Thank you.

6 Ms. Hall.

7 MS. HALL: I think that shows how badly my
8 handwriting can be interpreted. I need to work on that.
9 It's Hall, H-a-l-l. I checked to see if anyone named here
10 Robin came forward, but no one did, so I thought you meant
11 me.

12 MR. WALTERS: We did.

13 MS. HALL: I'm the human resources director
14 for the City of Lynnwood, and we have, approximately, 325
15 full time employees, equivalents rather. And we have an
16 additional seasonal work force in the summer of up to 200
17 employees. We have a human resources department of 3 1/2
18 employees. The half employee, of course, is a person who
19 works half-time and not a really short person.

20 And we are responsible for the safety component
21 at the City of Lynnwood. We do not go out and train
22 employees on safety issues. Of course, our supervisors and
23 department directors handle the actual practical matter of
24 that. But our department is responsible for writing any
25 kind of program and making sure that the City of Lynnwood

1 is in compliance with WISHA regulations. In this past
2 year, we formalized our hearing conversation program, so
3 it's now written down, and we also created a written
4 respirator program in compliance with the WISHA rule.

5 I have a concern that the caution zone jobs, that
6 term is not sufficiently defined. I guess, or actually let
7 me clarify that. I understand what it's supposed to be,
8 but I also have a concern that we have a number of jobs
9 that may or may not fall in that area. And that in order
10 for us to determine what's going to apply and what isn't,
11 we're going to need to analyze more jobs than might
12 actually qualify, just to be sure that we catch every one.

13 I just went down our list of positions a few days
14 ago in preparation for this, and I identified as many as 94
15 jobs that could possibly qualify as caution zone jobs.
16 Those jobs are like our certified journeyman and journeyman
17 in our public works and parks operations crews, and I think
18 they might qualify under the -- the term is escaping me --
19 but the issue was pinching and that kind of thing. They do
20 a lot of using tools, a vibration issue, those kinds of
21 things where they might qualify.

22 One of the things I have a concern about is that
23 I, as a human resources director, who have a broad base of
24 knowledge and am not a safety professional, am not really
25 going to know how to conduct a caution zone analysis

1 without more guidelines from the Department.

2 Now, I did look at the materials that you gave us
3 about the specific performance approach, but I have no idea
4 really how long that's going to take, and I don't know if
5 there are other materials out there that can help me.

6 You also suggested some measures in the general
7 performance approach that, unfortunately, I'm not familiar
8 with. And so I would ask the Department if you, indeed,
9 want us to comply with this, please give us more guidance
10 on how to measure whether a job is a caution zone job or
11 not.

12 I also want to state, based on what several other
13 people have said, the City of Lynnwood cares deeply about
14 our employees. We don't want them to be hurt, and we would
15 not every intentionally put them in a situation where we
16 think they're going to come out with some kind of injury.

17 So, that said, I wanted to make it clear that we
18 support reducing ergonomic injuries, we're just not sure
19 this standard is the way to go. And based -- then going
20 back to what I just said about the caution zone jobs,
21 that's an indication of why we think the standard isn't
22 quite ready to go.

23 Another issue we have concerns about is the
24 training issue. We talk about we need to make employees
25 aware about that, and we're more than happy to do, but how

1 do you expect us to do it? If we just give employees
2 information about ergonomics and what can they do, is that
3 enough, or do you want us to do a full-blown training
4 session, and if so, what do you want us to talk about in
5 those training sessions?

6 Do we talk about lots of different kinds of
7 things that employees can do? Do we talk about a standard
8 that their work station should take, and if so, can you
9 help us with that standard? Based on what limited
10 experience I have just in the past few years with
11 ergonomics, it changes, and so what is recommended today
12 may not be what's recommended tomorrow.

13 For example, one of the people who has been
14 assisting us in trying to set up workstations, because we
15 were doing this before the rules came out, is telling us
16 now that instead of using the keyboard such that your
17 wrists are straight that there is some research that's
18 saying you actually do better if your hands are down at an
19 angle below your wrists. Well, if that's the case, then
20 again that's just an example of how maybe nobody really
21 knows what will help, or if you do, can you give us
22 guidance?

23 And then I guess the last area that I'd like to
24 address has to do with the fact that there's no written
25 program. You say that we don't have to document, but when

1 you've come in and inspected me in the several jobs that
2 I've had, you've never accepted the fact that I don't have
3 documentation as indication that I have a program.

4 And so I don't, I guess, for a lack of a better
5 term, feel that me just telling you we've done it will be
6 good enough. So, I would like for you to give us an idea
7 of what we need to have, so that when you do come and
8 inspect, we will be prepared.

9 Again, I want to state we care about our
10 employees; we care about the laws. We want to do what you
11 want us to do, but you need to tell us what that is, and
12 the more guidance you can give us, the more satisfied
13 you'll be when you come in to inspect us, and by the same
14 token the safer our employees will be. And I hope you will
15 consider that before finalizing the rules.

16 Thank you.

17 MR. WALTERS: Thank you very much. Sit
18 still one second; we just have one question for you.

19 MR. WOOD: You referenced having done a
20 quick screening and identifying 94 different jobs that
21 appeared they fell in the caution zone. I realize you
22 probably didn't bring those.

23 MS. HALL: I meant positions, actually, I
24 should say.

25 MR. WOOD: If you had that available or if

1 you could make it available as part of the written record,
2 it would help flush out your testimony.

3 MS. HALL: Okay, I would happy to do that.

4 MR. WALTERS: Thank you once again.

5 Mr. Sells.

6 MR. SELLS: Mike Sells, S-e-l-l-s. I'm
7 secretary-treasurer of the Snohomish County Labor Council
8 the AFL-CIO. Our council offices are at 2812 Lombard in
9 Everett, and I reside at 3214 Grant Avenue in Everett. The
10 council is a federation of 55 different AFL-CIO unions with
11 48,000 members in this county.

12 We appreciate the Department coming to this area
13 and to hold one of its hearings on new proposed ergonomic
14 standards. We know that over the next week you're going to
15 hear a number stories from workers related to repetitive
16 stress injuries and musculoskeletal disorders.

17 We all know that those problems have become
18 endemic and need attention. Therefore, I won't go into
19 detail with specific stories, but would rather let those
20 who have experienced it directly come before you with their
21 very real and heart-rending information.

22 You're also going to hear from those few who seem
23 to think this is an economic issue, and it is, but not in
24 the sense some think it is. The economics of the issue for
25 many of those who oppose the new rules is more perceived

1 than real. There is already evidence that an ounce of
2 prevention is better than a pound of cure, and the proposed
3 ergonomics rules go a long way in that direction.

4 Those companies that have stepped forward with
5 good ergonomics training and invested the time have and
6 will reap benefits in less lost work time, greater
7 productivity, and less workers' compensation claims in the
8 long hall. That makes good economic sense.

9 When we talk economics, we need not only talk
10 about bottom-lined internal costs in any one particular
11 quarter, we need to talk about other external costs, such
12 as subsidized medical costs when injuries are left to be
13 repeated and ultimately end up in the healthcare system,
14 rather than as workers' compensation claims or the
15 unsubsidized part of workers' compensation claims.

16 Who pays those costs ultimately? All of us do
17 through our health insurance premiums.

18 You have the cost to individual worker paychecks
19 due to lost time, and again that affects all of us because
20 it is money lost to the community when it is not spent for
21 the necessities of living.

22 You have the discomfort and loss of function
23 outside the workplace. For instance, you can't dot dishes
24 anymore because of the carpal tunnel problem you have.
25 That's a real cost.

1 The bottom line is that the standards being
2 proposed will have long-term economic benefits for society
3 and can help lead to greater productivity in workplaces
4 that assiduously work toward elimination of MSD problems.

5 What the Department of Labor and Industries is
6 proposing makes economic sense and puts all companies which
7 come within the caution zones jobs area on an even economic
8 playing field when it comes to this issue. It will no
9 longer be a question of those wisely pursue a policy of
10 ergonomic training and those who are willing to risk
11 injuring others from what they think will be short-term
12 profit.

13 This is not simply a question of, Can we afford
14 to do this? We simply cannot afford to ignore the problem
15 any longer. Thank you.

16 MR. WALTERS: Thank you. Let's take a
17 ten-minute break. We'll be back at 2:50.

18 (A brief recess was taken.)

19 MR. WALTERS: Okay, let's get started
20 again. Irene Rene Corlis. Margie Wipf. Antonia.

21 MS. BOHAN: Thank you. My name is Antonia
22 Bohan, B-o-h-a-n. I'm the president of Service Employees
23 International Union Local 120 here in Everett. I actually
24 represent employees in Snohomish, Skagit, Whatcom, Clallam,
25 Jefferson Counties, through industries ranging from

1 healthcare to school districts to law enforcement.

2 I am pleased that the WISHA Advisory Board
3 determined that ergonomics was their number one priority,
4 and, in fact, the Healthcare Subcommittee of WISHA
5 determined that ergonomics was their number one problem
6 throughout the industry.

7 I want to speak just for a few minutes about some
8 of the issues that the workers I represent have had over
9 the past. One person particularly stands out in my mind
10 who was a central supply technician at a Snohomish County
11 hospital for 16 years and did perfectly well, until an
12 interior designer advised the hospital to install carpet.
13 He now is unable to ever do that work again. He has
14 problems with his cervical discs. He can't lift his
15 children. He's had to be retrained for another job. That
16 should never have been allowed to happen.

17 I have clerical folks in hospitals and in law
18 enforcement, specifically, 911 dispatchers with severe
19 carpal tunnel problems because of needing to work on
20 keyboards all day long. Sometimes they have as many as
21 three keyboards in front of them. So, it's not a matter of
22 adjusting your desk and your chair to one keyboard, but
23 reaching and leaning to access the other two keyboards.

24 I represent certified nursing assistants in
25 nursing homes and in hospitals who have severe back strains

1 from having to lift quite large patients. There's always
2 an issue of short-staffing, not enough people to assist to
3 do that. There's always an issue of commercial to the
4 employer, so that they don't buy the equipment that would
5 make those jobs more compatible to a human body.

6 I represent school bus drivers who have severe
7 lower back injuries, compressed discs, and things like that
8 because of the poorly designed seats in their busses and
9 because of whole body vibrations.

10 I understand that this rule does not address
11 whole body vibrations, and, in fact, I don't see where it
12 addresses a lot of pushing and pulling, which is what
13 happened to the first member of mine that I spoke to you
14 about, pushing a 7-foot tall cart loaded to the brim over
15 carpet with 3-inch wheels.

16 I would like to see this rule address those
17 issues more strongly, the pushing, the pulling, the full
18 body vibrations. Other than those two things I think it is
19 weak in, I like the rule. I'm supportive of the rule. I
20 would hope that business would understand that labor is
21 trying to cooperate with them, that we're not pushing to
22 institute the rule any sooner than the time line that the
23 Agency has come up, although I, personally, would like to
24 see it happen sooner.

25 I like the fact that this is a preventive rule,

1 unlike WISHA's, which is after the fact, after someone's
2 hurt, let's go see what happened to them.

3 I would hope that business would be happy to work
4 with their staff, with their employees, to identify the
5 caution zone jobs, and to ask the employees, specifically,
6 What would you like to see done differently in these jobs?
7 What would help you at the end of the day to go back home
8 to your family with a whole body, not aching, you know,
9 from joint to joint? Because that's what happens to a lot
10 of these people.

11 Mike Sells spoke to carpal tunnel syndrome and
12 just the daily life activities that you can't do anymore.
13 You can't wash the dishes; you can't do your laundry; you
14 can't vacuum your rugs; you don't have an income, you can't
15 hire someone to do that. It is, I think, wrong of
16 employers to treat their employees as resources, such as a
17 piece of furniture or a piece of equipment. They're not
18 resources, they're human beings.

19 And we need I think always to keep that in mind
20 and to do the best that we can to ensure that when they go
21 home from work, they can fully participate in their
22 families. Thank you.

23 MR. WALTERS: Thank you.

24 Ms. Wipf.

25 MS. WIPF: My name is Margie Wipf, and I

1 work in retail as a checker, have been a checker since I'm
2 15. So, there's almost 30 years there. And I have never
3 had any problems until the last, oh, 20 years. And I have
4 to say that I attribute that to the working conditions that
5 I have worked in and mainly the check stands.

6 I have had a few claims with workmans' comp. I
7 had one with Labor and Industries and was treated quite
8 well. I had two with self-insured, and I must say it was
9 the most humiliating experience of my life and would never
10 go back, even if I had an injury on the job. The reason
11 being is that they put you through this test as if you're
12 some kind of a guilty person, trying to make a claim. And
13 I'm a very productive, happy individual, who enjoys my
14 job. And I must say this is -- this ergonomics proposal
15 here is one of the most exciting things that I have heard
16 so far.

17 I think that, number one, when you educate people
18 about ergonomics, you're going to find that they're going
19 to be much more productive when they're aware of what they
20 need to do right and what they need not to do to prevent an
21 accident or an injury.

22 I think that, in my job, I'm in a check stand
23 that inhibits your body to move in a way that it needs to
24 move to prevent an injury. There's a lot of twisting;
25 there's lot of bending. Right now we have new computers,

1 so the keyboards are extremely stiff, which causes carpal
2 tunnel symptoms, which I hadn't had in a while because I
3 was doing preventive measures on my own, which I do
4 frequently, namely accupressure, massage therapy.

5 And I think employers should also look at doing
6 something like that for their employees on the job. There
7 should be classes for accupressure, massage therapy, and
8 they are very small little techniques that can be done
9 right on the break that can prevent a lot of these
10 injuries, as well.

11 I have some shoulder problems from having to
12 twist and bend to the left and into a cart that's not level
13 with my stance. I have back problems. I've had claims on
14 these. I've had a compressed disc. I chose to use
15 accupressure and massage therapy, and now I exercise to
16 keep my muscles nice and strong, so the bones stay in place
17 as much as I can possibly do.

18 So, I believe in all of this preventive care. I
19 think it's real important. It also has a great effect on
20 your attitude, even if you are in pain, you can rise above
21 the pain if you have a good attitude and you know you're
22 doing something positive.

23 I think in our store we need conveyor belts. I'm
24 from the East Coast, and they had conveyor belts. And I
25 never had a problem when I had a conveyor belt. I mean, if

1 you look at how many customers come through a line in a
2 check stand, you have to lift for each and every one of
3 them, it's quite taxing on the body.

4 We also with our new computers were told we were
5 going to get hand scanners for the heavy items that go
6 underneath this cart that is supposed to be more level with
7 our check stand. They did try to improve that, and I have
8 to give them credit. They are trying, but these items are
9 just too heavy for anyone to lift. And the hand scanners
10 were taken out because of an expense, an added expense that
11 they told us they couldn't afford.

12 The keyboard itself is, they have tried to adjust
13 that with a handle to make the keyboard go up and down;
14 however, the shelf that it's on is not adjustable. So, if
15 you're short, you have to take your keyboard and make it on
16 an angle which bends your wrist.

17 At home I have a computer. I use an ergonomic
18 keyboard. I tested it out. I bought it at Costco because
19 I wanted to see the difference. I was told, "Now, it's
20 going to take about two weeks for this, for you to get used
21 to this keyboard, and then once you're on it, you're not
22 going to want to give it up."

23 I accidentally spilled -- I loved it when I was
24 using it. It took about two weeks, that's about what it
25 took for me to get used to it. I accidentally spilled

1 something on the keyboard and ruined it. Well, I had to go
2 back to my little pad, you know, and stuff on my keyboard,
3 and I've had problems with my wrist since I've changed
4 back. So, I know that the ergonomic keyboard works,
5 definitely.

6 To end this off, I'd just like to say that, in my
7 viewpoint, I think this is a wonderful thing that you're
8 doing. I think education equals awareness which equals
9 doingness [sic], which equals positive reinforcement, which
10 equals positive attitudes in the workplace. And I think
11 this type of education for both the employers and the
12 employees together should be mandatory, because I think it
13 benefits everyone in the long run.

14 And that's all I have to say.

15 MR. WALTERS: Thank you.

16 MS. WIPF: You're welcome.

17 MR. WALTERS: The next panel will be Bob
18 Weisen, Paul Shinoda, and Richard Gilda. And after that
19 panel, Helen Meyers, Phil Lewis, and Larry Bindner should
20 be prepared to come forward.

21 Mr. Weisen.

22 MR. WEISEN: My name is Bob Weisen,
23 W-i-e-s-e-n, 3314 Douglas Road. I'm the owner of a small
24 trucking company in Whatcom County, specialize in LTL
25 freight. That's shipments from anywhere from 100 pound to

1 500 pounds, 5,000 pounds. We do a lot of those shipments,
2 and everyday is different.

3 I think this is a very important issue to small
4 businesses. I contacted about 20 small business owners
5 Whatcom County. All consider the issue important, but all
6 but six felt they could not afford the time away from their
7 businesses to come here today. This morning, the dairy
8 farmer of the group who was going to come called me and
9 said he had an emergency develop, and he couldn't come
10 either.

11 So, anyway, I also felt, you know, it's just hard
12 for us small business people to get out to a meeting like
13 this in the middle of the day, because that's when we
14 work. Also, the question and answer session we had here, I
15 felt was way to short, and the answers really weren't what
16 I'd consider real informative.

17 This seems to be another one-size-fits-all rule
18 that we have learned in the past doesn't work effectively.
19 People vary; men, women, large, small, tall, short, etc.,
20 etc. I have two office chairs that my bookkeeper and
21 dispatcher use. One is a very expensive ergonomically
22 correct chair, theoretically; the other, a very cheap
23 office chair. Guess which one gets used, because it's more
24 comfortable, the cheap chair.

25 I'm concerned that the rules are not based on

1 proven cause of problem or a measurable improvement. The
2 Congress has financed a study by the National Academy of
3 Sciences that has not completed that study yet. Why did
4 all those typists using those old Royals and Remingtons
5 and Underwoods never get carpal tunnel?

6 Most small businesses are very safety conscious
7 for many reasons. No. 1, these employees become part of
8 our family, and we like to protect our family. No. 2, good
9 employees are hard to come by, and we would not want to
10 lose them due to an injury. We also need to keep our
11 customers happy, and if we have employees that are unable
12 to work due to the fact that they're injured, we can't
13 provide those services.

14 I worked for a feed mill during the summers when
15 I was in high school. That work involved sacking feed,
16 unloading boxcars of Purina feeds for livestock and
17 delivering those products. That's when feed sacks were a
18 hundred pounds. We'd do that all day on end.

19 Luckily, I worked with an older employee who took
20 the time to show me how to do that work; showed me how to
21 move my body so that I didn't stress things; showed me how
22 that, you know, you could keep doing that hour after hour.
23 You know, we'd take a little break, but you'd go right back
24 at it. You know, a rail car is pretty big.

25 Later on, I became a carpet layer apprentice. I

1 was fortunate enough to work with an older crew, 45- to
2 50-year-old guys. They educated me on the fact that this
3 is a good trade, but you won't last if you don't take care
4 of your back and your knees. Consequently, as we worked
5 the jobs, they'd be reminding us, Keep your back straight
6 when you got that be big roll of carpet on your back. We
7 also didn't carry carpet on our shoulders. We'd bundle it
8 and put it on our backs, so you don't have that twist.
9 When you use the knee-kicker, don't use your knee, you use
10 the front of your shin, and they'd keep reminding you. My
11 knees are still good; my back is still good.

12 So, you know, there's an awful lot to this. It's
13 not just the matter you might write some rules and tell
14 people to do things properly and some people have different
15 capabilities.

16 In the last 25 years, I've sat in the driver's
17 seat of a semi for a considerable period of time. Some of
18 those trucks don't ride with a darn, however, my back's
19 still good.

20 I feel all employees bear some responsibility for
21 their own work habits. We can do all the training that we
22 can to try and improve how our employees do things, but if
23 they don't follow those suggestions and procedures, we
24 still get blamed.

25 I think the bad news is that I don't believe this

1 is going to work. The good news is that you may do some
2 research along the way and give us help in deciding what
3 kinds of things will help, and we can implement those, but
4 the way this is written, I think it's going to be a
5 nightmare for small business people to try to perform to.

6 Thank you for your time.

7 MR. WALTERS: Thank you.

8 Mr. Shinoda.

9 MR. SHINODA: My name is Paul Shinoda,
10 S-h-i-n-o-d-a.

11 In the late '70s, this state instituted a law
12 called LEFF, L-E-F-F, Law Enforcement and Fire Fighters.
13 And that law covered -- if you were an employer of a fire
14 fighter or a law enforcement type person, you covered the
15 potential disability 100 percent of the time 365 days a
16 year. So, if that employee was a state patrol motorcycle
17 officer, and for their fun and jollies they raced some
18 motorcycle at some speedway on the weekends, and they were
19 in crash on the speedway and broke their arm, they were
20 disabled and they were paid a disability. So you, as an
21 employer, were paying for their disability 100 percent of
22 the time 356 days a year, and there were problems with
23 that, and LEFF II supposedly changed it.

24 What I'm saying, what you have in front of you is
25 what Paul calls the AMAT, A-M-A-T, All Musculoskeletal All

1 the Time, because when your employer -- employee gets --
2 well, the statistics are, that you work, roughly, 21
3 percent of the time, in a year basis; you sleep,
4 approximately, 33 percent of the time, and people do tweak
5 their back when sleeping and have problems; and you're off
6 doing other things 46 percent of the time.

7 We also heard the Department saying that they're
8 going to be concerned about these injuries being job
9 created, rather than off the job, and they talked about
10 claims management. My contention is claims management by
11 the Department of Labor and Industries is an oxymoron. How
12 do we control -- the woman who was the checker says she has
13 a keyboard at home. So, if she gets carpal tunnel, is it
14 created by the eight hours a day that she works on the
15 keyboard at the check stand or the seven hours a night that
16 she plays computer games? Who's responsible for that?

17 Are you going to allow the employer the right to
18 negotiate? Are you going to allow the employer to know
19 whether or not your employee is lifting concrete blocks and
20 setting walls on the weekend and at night or working on his
21 motor vehicle? Or he's a snowboarder, and he loves to
22 crash moguls, and so what happens to his lower back when he
23 crashes moguls? All of these things are -- those never
24 happen on a ski board, they always happen on the job.

25 AMAT, All Musculoskeletal All the Time.

1 So you see, you say, "Well, claims are
2 increasing." Well, I would say that if the state gave out
3 free booze, incidences of alcoholism would also raise.

4 Talk about cost-effective, when you talk about --
5 I love this -- the ergonomic rule making is good sense and
6 good science. And you cite the last paragraph in
7 parentheses, these are the scientists that have gathered,
8 "Repetitive lifting of heavy objects in extreme awkward
9 positions cause ergonomic problems." Duh.

10 Seventy-four scientists met with the National
11 Academy of Science, and they said, "There's a problem."
12 The National Academy of Science is in the process of this
13 congressional funded mandate to find out what causes
14 ergonomic problems. Would it not behoove the state to wait
15 until the study comes out? No, you want to rush ahead and
16 see what happens with this at the cost of employers.

17 As an employer, we are mightily concerned of our
18 employees. We do not want these things to happen, but we
19 want to be treated fairly. If the state says, Okay, put in
20 this piece of equipment or modify this, and then two years
21 later it proves that they are wrong, is the state going to
22 reimburse me my cost of this new equipment or this
23 modification? No. They'll say, "We're sorry."

24 The state has deeper pockets than any of the
25 employers in this state because they have the power of

1 taxation. I suggest that you wait until the national study
2 comes out or start a pilot program, but this one size fits
3 all is not a good approach, and I've yet to see the Labor
4 and Industries be kind. They come out and try to do their
5 best, not to prevent things from happening, but figure out
6 how much of a fine they can charge you. Thank you.

7 MR. WALTERS: Thank you.

8 MR. GILDA: Richard Gilda. I'm from
9 Bellingham, also, and I live in, actually, rural Whatcom
10 County. I don't claim Bellingham as my residence.

11 If I was to say probably what I really think of
12 this thing, some of the people that are pro with you guys,
13 you probably wouldn't let me out of here, but I'm impressed
14 with the turn out.

15 One of my main thoughts when I first heard about
16 this is why I hadn't heard about it. If it hadn't been for
17 Independent Business Associations sending me a thing back
18 on the 10th, the middle of December, and I didn't read it
19 until after Christmas, I wouldn't have even known about
20 this.

21 I feel that this isn't the first time that L&I
22 has had a hearing for something that as an employer -- I am
23 a small business, very small. I don't have to worry about
24 this for four years, according to this, but I'm worried
25 now -- we don't hear about it. It doesn't come in our

1 mail. They send us all kinds of propaganda, but they've
2 never sent me anything that says we're going to have a
3 hearing. I've asked down there, "Let me know about
4 hearings," and I might hear one, and I never get the second
5 mailing.

6 If you had this out to every employee, small
7 business, you wouldn't have room in this building for the
8 people. I can guarantee that. If you come up to
9 Bellingham and you had a hearing, and if people knew about
10 it, you'd fill up with no problem.

11 I contacted on Monday, in person, 14 businesses,
12 three farm equipment places, a potato grower, and on down
13 the line. I contacted 14, and it was quite interesting.
14 Of the 14, one of them had the same info I had from IBA,
15 read it and said, "This can't be right and they're not
16 going to do that." I assured him he might be wrong.

17 One had heard about it from somewhere else. He
18 called L&I in Bellingham, and they didn't know anything
19 about it, couldn't give him any information.

20 One of the two places, the first one -- or excuse
21 me, the second one -- had a safety officer person there,
22 and I had quite a conversation with her for about 15, 20
23 minutes, and she thought it was great. She said, "That's
24 the greatest thing to come out. I can write a program on
25 this." She says, "I'm not going to worry about it, even if

1 I can't get the information. When it comes out, I'll go to
2 it then."

3 Well, I got to thinking this is great if you're a
4 person in that business and you've got to write a program.
5 I think dealing with hazmat, people who are in that think
6 that every time there's a rule passed it's more business
7 for them.

8 And you can see I'm not a real good speaker, and
9 I haven't got myself well organized here, but carpal tunnel
10 is mentioned by several people. Now, I have a real problem
11 with that, because I've done painting, I've run chain saws,
12 I've done all kinds of labor work, and my wrists get sore.

13 And I was told one time I had carpal tunnel. I
14 went to the doctor. He wanted me to take and get it
15 operated on right now. I said, "What's the advantage?"
16 "Well," he said, "it will take care of it for a while."
17 But the big advantage was I could get anywhere from a
18 couple weeks to six months vacation paid by L&I from it.
19 And I said, "Gee, I don't want to be off work that long,
20 even 60 percent." Well, he said, "Okay, get yourself
21 another doctor." You know, so I still haven't had the
22 operation.

23 But, if seems like, anymore, if you haven't had
24 carpal tunnel, you're not in the "in" group. If you
25 haven't had the operation, you're just terrible.

1 So, I don't know what's happened. Back in my
2 days when you took a job, and even now when I hire people,
3 I hire people -- and you don't expect them the first week
4 on the job good to be perfectly good shape. They got to
5 get their muscles toned to it. And I have people come to
6 work for me. What we do is land vegetation management.
7 That's the politically correct word for heavy-duty mowing,
8 brush clearing, erosion control, and a lot of shovel work,
9 cleaning ditches, moving rocks.

10 And a lot of them come to me, "Oh, I got to go to
11 a chiropractor tonight. I can't get up in the morning." I
12 say, "Give it a couple days," and most of them after a
13 couple days, they don't have any problem, it goes away.
14 But this so quick to want to get off. If they go to
15 doctor, he gives them a week off and then they're cured,
16 you know.

17 Let's see, then there's a couple of other things
18 here. It says, "This rule is proposed to not apply to
19 agriculture, construction, maritime operations, nor most
20 clerical, administrative, supervisory,
21 technical/professional jobs."

22 No, but then I read somewhere else it's going to
23 do everything -- and I'm going from my notes, not something
24 you guys got here, but anyway then says, "Lifting objects
25 weighing 75 pounds or more once per workday." When I hire

1 a guy I have a little contract, and I say to him, "Can you
2 lift a hundred pounds?" And they usually say, "How many
3 times?" I say, "Well, if you're a hard body, I expect you
4 to do it maybe 20, 30 times a day," you know, but not maybe
5 occasionally might have to lift a hundred pounds. Then
6 they come to work knowing they're going to have to lift.

7 Okay. This says, down below, it says, If he
8 lifts around 75 pounds once a day. You can't lift more
9 than 90 pounds at any time. Well, then it says that 55
10 pounds is ten times per day. Well, if we're cleaning out a
11 ditch and we're hucking wood out of there from windfalls or
12 something, a lot of those blocks of wood will weigh 50, 60
13 pounds or more. You know, and that kind of bothers me a
14 little bit because you can only cut stuff so small, then it
15 starts raising the price for the people you're working for.

16 Then you also have in here that they can't use a
17 chain saw for more than 30 minutes a day because of the
18 vibration. And then over here on this one, here it's
19 squatting for two hours per day. Now, if we go out on
20 another job like doing fence work, if you go down to do the
21 bottom on barb wire, for instance, or chain link, any of
22 it, when you get down to the bottom half of a post you're
23 squatting, or else you're going to have to bend where
24 you're upside down and completely out of shape. And two
25 hours a day is just -- I don't know.

1 And pinching, and there's all kinds of little
2 things. I could spend more time, but there are a lot of
3 other people that want to -- but I think there's two things
4 here. One is really maybe something's needed; maybe it's
5 not, but the thing is if you're going to do this, I think
6 you need to do two things. One is be more proactive in
7 letting the public know or at least employers know what's
8 coming down the line. Don't just advertize it in the
9 paper. I look at the legal section all the time, looking
10 for my name or something, you know, but I missed this. I
11 missed it, I really did, and let us know.

12 And the other thing is have your people come talk
13 to some of the small businesses and go out and see what
14 they're doing, rather than just take something from a
15 computer model or something that's not working.

16 I thank you for your time.

17 MR. WOOD: In your comments you referenced
18 as you were going through them, several documents.

19 MR. GILDA: Right.

20 MR. WALTERS: In order for clarity of the
21 record, the yellow document that you have, can we get a
22 reference on that or a copy of it?

23 MR. GILDA: I'll give it to you.

24 MR. WALTERS: We'll match it up with your
25 comments. Thank you.

1 MR. WALTERS: Thank you. The next panel
2 will include Helen Meyers, Phil Lewis, and Larry Bindner.
3 And then Kent Hendricks, Irene Rene Corlis. Are you here?
4 Is Irene Rene Corlis here? Is Gail Eversole here?

5 (No response.)

6 MR. WALTERS: After this panel, Kent
7 Hendricks, William Walker, and Ed Triezenberg will be
8 next.

9 Mr. Lewis.

10 MR. LEWIS: Good afternoon. My name is Phil
11 Lewis. I'm director of operations and safety for Schenk
12 Packing Company in Stanwood with 115 employees.

13 My employer is very upset that the Department is
14 about to have an expensive rule despite considerable
15 industry disagreement with this rule. As a matter of fact,
16 I was in this very room when we testified against it in the
17 past, and significant disagreements were voiced then and
18 have not been responded to.

19 This rule does not make sense because of three
20 significant flaws. One, the lumping of carpal tunnel
21 syndrome and back injuries and tendonitis is not good
22 science. It's like having apples, oranges, and
23 watermelons, and if you can't see that, there is no
24 possibility of this thing working out.

25 Two, the causes of back injuries vary quite a

1 bit. Workplace layout is not related to many of those
2 accidents. The basis of this rule is wrong. The whole
3 emphasis should be focused upon companies with high
4 incidents of those types of accidents that you are
5 concerned about.

6 Incidentally, I don't like the way you've done
7 your facts here. Lumping all these does not tell you
8 what -- how many carpal tunnel syndromes we had and how
9 much those cost in lost time and in medical and how many
10 back injuries and how many there were and how much they
11 cost in medical and lost time. And I think this would be
12 very instructive.

13 There is an AD 20 rule in the industry that says,
14 "Go where the money is." And if you're interested in back
15 injuries, as these nurses have all told you about, then go
16 after back injuries, if that's where the money is. This is
17 not well thought out.

18 You should focus on the bad guy. This rule
19 places high expense on companies who cannot reduce the
20 costs of L&I. I object to the data included because
21 they're taken from claims, which include the opinions of
22 doctors who have not seen the workplace, who do not know of
23 the work of the claimant. The injuries or accidents are
24 not differentiated by the age of the employee. The
25 employees who have repeat accidents of the same nature are

1 counted as separate events. The definition of
2 musculoskeletal problems is so broad as to be meaningless.

3 When we met here before we said, If you're going
4 to restrict your definition to repetitive action injuries,
5 it would make -- be much more possible to deal with for
6 employers and L&I. We conclude that any rule must yield
7 effective results in two years or should sunset.

8 The basis must be scientifically valid. The
9 program should be evolutionary in nature, as yours appears
10 to be. It should target bad employers, which it does not.
11 It should provide broad mitigating options, which it does.
12 It should not be a device to cite, but a method to send a
13 message, and there's not enough of that in it.

14 It should be short, simple, and not subject to
15 the compliance officer's whim. The contingent liability
16 the state faces in requiring expensive changes which do not
17 then produce the reduction in accidents that the L&I
18 enforcers said it would is large. Ergonomic rules are
19 likely to be the source of many employee lawsuits and
20 employer lawsuits to the Agency, itself.

21 The definition of a solution covers a wide range
22 of actions, few of which have been proven to be of value.
23 The scientific method calls for accumulation of facts to a
24 competent analysis of the facts and finally a
25 recommendation of a course of action which has a high

1 likelihood of producing benefit far in excess of the
2 expense incurred.

3 This proposal for a rule fails on all three
4 levels. And, finally, this rule should be held in abeyance
5 until every accident is reported by the employee to the
6 employer within two working days. As it is, the employee
7 can tell the doctor anything, and I could go on to some
8 personal accounts, but I won't in the interest of getting
9 on to other individuals. Thank you.

10 MR. WALTERS: Thank you.

11 Mr. Bindner.

12 MR. BINDNER: Good afternoon. My name is
13 Larry Binder; that's B-i-n-d-n-e-r. I'm with the
14 Washington and Northern Idaho District Council of
15 Laborers. We represent about 10,000 construction workers
16 in the State of Washington. I'm here today to speak in
17 favor of the proposed ergonomic rules.

18 I have read the proposed standard, and I do feel
19 it presents a fair and reasonable method for employers to
20 implement and comply with it. And I do believe that the
21 phase-in periods are generous and make it easier for
22 smaller employers to comply.

23 I do have a personal interest in ergonomics
24 rules. As a young construction worker many years ago, I
25 was diagnosed with carpal tunnel syndrome, and I didn't get

1 carpal tunnel syndrome from playing computer games in 1971
2 or from skiing or from knitting or anything like that. The
3 doctor suggested it probably came from running pavement
4 breakers and shipping guns all day long day after day.

5 At that time, there was no "in" crowd for carpal
6 tunnel. In fact, it took a year for me to see a doctor. I
7 finally did at the University of Washington. I was told
8 have the surgery or get into another line of work where I
9 didn't have to use my hands very much. I could sell cars
10 or something like that is what I remember very clearly the
11 doctor suggesting to me. Now, with a young family and not
12 much money, that didn't seem a very good option. I did
13 have the surgery and managed to have a pretty good career
14 in construction.

15 I've since worked with some of our members that
16 have suffered from carpal tunnel and other MSDs. I know
17 how disruptive and frustrating and painful it is to go
18 through it, and I can see what it's done to their lives and
19 seen the careers that have been cut short.

20 I applaud the Department on its proactive
21 approach to these ergonomic standards, and I do urge them
22 to adopt them. Thank you for your time.

23 MR. WALTERS: Thank you.

24 Kent Hendricks, William Walker, and Ed
25 Triezenberg. And after that panel, Gigi Burke, Jeff

1 Weewie, and Linda Tong.

2 MR. HENDRICKS: My name is Kent Hendricks,
3 H-e-n-d-r-i-c-k-s. I work for, manage, or own three
4 different businesses in Snohomish County here, totalling
5 about 65 employees. We at these organizations, we care
6 about our employees. We address needs as they arise. We
7 have an open-door policy. They come to us, they know that
8 we care about them. They are like family to us, every one
9 of them.

10 Our bodies are marvelous gifts. When they are
11 being used improperly, our bodies tell us. Rarely does an
12 injury occur that isn't known beforehand by receiving some
13 sort of small pain usually. And, in that case, if the
14 employee hasn't already addressed that, then we address
15 that with them, and we provide for means to eliminate the
16 problem that's caused that pain.

17 I am concerned that I guess one of the
18 foundational statements made by WISHA here on page 1 of the
19 supplement stating, "Ergonomics rule making is good sense
20 and good science." It details right up front an example of
21 a 1997 publication where the National Institute for
22 Occupational and Safety and Health evaluated more than
23 2,000 scientific publications reviewed 600 reviewed
24 epidemiological studies in detail, and they concluded --
25 and I want to evaluate this -- a substantial body of

1 credible epidemiological research provides a strong
2 evidence of an association between musculoskeletal
3 disorders and certain work-related factors when there are
4 high levels of exposure and especially in combination with
5 exposure to more than one physical factor.

6 That statement by itself should be enough reason
7 to indicate that we started here at Square 6 instead of
8 Square 1. That says that if more than one physical
9 factor -- two or more physical factors are done together at
10 high levels of exposure, then there is an association, not
11 a cause and affect, but an association with between
12 musculoskeletal disorders and certain work-related physical
13 factors. That is no means for making decisions that are
14 going to affect the lives of thousands of people in this
15 state.

16 What we need is to go back to Square 1. We need
17 a study and there has been no study anywhere where anybody
18 can say, If you implement this change in procedure, that
19 overall we expect a 35 percent reduction in injuries. What
20 we need is something that will tell us that. We need one
21 of two things. We need either a pilot program done by
22 Washington State where, for example, an independent
23 organization would work with volunteer companies to
24 actually look at specific procedures and determine actual
25 results, based on changes in procedures in reduction of

1 injuries.

2 Alternatively, we could wait until the National
3 Academy of Sciences concludes their study. This needs to
4 be done based on fact. Virtually all this is conjecture
5 within this document. We need to do what makes sense and
6 is provable so we can really document that this will
7 benefit the people of Washington.

8 MR. WALTERS: Thank you.

9 Mr. Walker.

10 MR. WALKER: My name is William Walker,
11 W-a-l-k-e-r. I'm the regional safety and health manager
12 for Marine Terminals Corporation in the Pacific Northwest.
13 Marine Terminals Corporation is one of the two largest West
14 Coast stevedoring and terminal operations company. Most
15 people don't know what a stevedore is. That means we load
16 and unload ships and operate harbor terminals.

17 My company has had an ergonomics program as part
18 of our injury and illness prevention program for years. In
19 fact, no one in our regional or site offices in the
20 Northwest can buy a desk chair without it's approved by
21 me. We focus on ergonomics as an ongoing part of our
22 business. The marine cargo handling industry has long been
23 recognized as a rather unique specialized industry,
24 involving special equipment, workplaces, and work practices
25 uncommon in general industry.

1 Accordingly, the U.S. Department of Labor, OSHA,
2 and Washington Department of Labor and Industries both
3 established vertical standards, that is regulations
4 applicable just to the marine cargo handling industry, and
5 these are the so-called long shore and marine terminal
6 standards. This seems to recognize the speciality or
7 uniqueness of the marine cargo handling industry.

8 The gear and equipment used in the industry is
9 often mandated internationally and approved for vessels and
10 their cargo containers and so forth by the U.S. Coast
11 Guard. We, in our industry, do not have the option to
12 change that. When the International Maritime Organization
13 and other international bodies establish a certain practice
14 or procedure or equipment level, that's also thereby
15 required by the U.S. Coast Guard.

16 So, some of this equipment must be lifted and put
17 in place and requires -- the handling of that gear and
18 equipment requires repetitive motion, etc. For these and
19 other reasons, the federal OSHA has chosen to exclude the
20 marine cargo handling industry from its proposed ergonomic
21 standard. We hope that Washington State will do the same.

22 It should be noted that nearly all of the jobs in
23 nonsupervisory jobs and some of the supervisory jobs could
24 be construed as caution zone jobs. We're not talking
25 about, you know, one out of ten, we're talking just about

1 100 percent of the jobs, and yet, given the equipment that
2 must be used in the industry, we see no way to alter that.

3 It should be also noted that the data that you
4 quote does not include the marine cargo handling industry,
5 since they are not covered understate workers'
6 compensation, but are, in fact, covered under the United
7 States Longshoreman and Harbor Workers' Act and under U.S.
8 Department of Labor under the Office of Workers'
9 Compensation Programs coverage.

10 In looking at the proposed rule, use of terms
11 like "reasonable, typical, feasible, normal," and the like,
12 as used by Dr. Silverstein today can be interpreted
13 widely. We are hopeful that such terms will be well
14 defined and explained, so as to avoid the pitfalls found in
15 such instances as the Americans with Disabilities Act where
16 what is reasonable has had to be defined on a case-by-case
17 basis by the courts.

18 Similarly, in the interest of fairness and
19 propriety, we need to have the qualifying injuries and
20 illnesses specifically defined, that is what is and isn't
21 covered. This is needed to avoid the extreme cost and
22 abuses of the system, as has been seen in recent years with
23 such things as hearing loss claims.

24 It is noted that nearly -- I already mentioned
25 all jobs in the marine cargo handling industry could be

1 construed as caution zone jobs.

2 Who is the responsible employer also needs to be
3 well defined. We in the maritime industry have largely
4 transient workers, that is union long shore workers
5 dispatched on a daily basis from a union hall to a variety
6 of work sites. They can vary their work site every day.

7 So, these are some of the issues that we feel
8 that needs to be addressed in the regulations. These do
9 not constitute all of my comments, and I will be submitting
10 written comments by the due date. Thank you very much.

11 MR. WALTERS: Mr. Triezenberg.

12 MR. TRIEZENBERG: Good afternoon. My name
13 is Ed Triezenberg. It's T-r-i-e-z-e-n-b-e-r-g. I'm a
14 business representative for the Pacific Northwest District
15 Council of Carpenters. As such, I represent many union
16 carpenters in the Puget Sound area.

17 I would like to submit to the hearing today a
18 copy of a recent study by Duke University Medical Center,
19 the Division of Occupational and Environmental Medicine.
20 They did a study which covered seven years, from 1989 to
21 1995, of carpenters in the Puget Sound area, union
22 carpenters, and the injuries that they sustained, upper
23 extremity musculoskeletal disorders.

24 This study covered 12,725 carpenters. There were
25 1,720 reported injuries of that type, and it's an in-depth

1 study. These are real people. They are people I
2 represent, my members. They're my friends, they're my
3 coworkers. These are real injuries that occur on
4 construction sites.

5 I would like to speak in favor of adopting these
6 rules. I believe one of the consequences of doing so would
7 be that employers would use many of the tools that have
8 been developed to promote good ergonomic activity in the
9 workplace. Those tools exist out there, but many employers
10 in the construction industry choose not too use them. They
11 tend to purchase tools that they've always used because
12 they've always used them.

13 It wouldn't create a high cost for employers, but
14 it would receive a whole lot of anguish and pain for people
15 who are doing the construction, and it would also end up
16 saving employers a lot of money in the long run I believe.

17 Thank you.

18 MR. WALTERS: As the reporter changes the
19 tape, you can stretch and take a three-minute break.

20 (A brief recess was taken.)

21 MR. WALTERS: Okay, let's get started
22 again.

23 Ms. Gigi Burke.

24 MS. BURKE: Yes, I'm Gigi Burke, and I'm the
25 executive vice president of Crown Distributing here in

1 Everett. Crown Distributing has a long tradition of
2 reducing injuries, creating a safe workplace, and
3 encouraging safe work practices for all employees.

4 While it's fair to expect employers to be
5 concerned about employees' physical well-being, it's unfair
6 to hold businesses accountable for everyday aches and pains
7 that have nothing to do with the type of work an employee
8 does.

9 If the proposed rule goes into effect, the impact
10 on businesses small and large will be substantial. The
11 suggestions put forth by the proposed rule are so broad
12 that few businesses will be able to afford to implement the
13 recommendations, let alone address real workplace injury
14 issues.

15 There's no evidence that the proposed rule will
16 reduce ergonomic injuries, which makes the proposal little
17 more than a grand experiment that could literally bankrupt
18 some businesses and severely impact others.

19 If physicians and other scientific experts can't
20 agree on the causes of ergonomic injuries, let alone how to
21 prevent them, how can an employer be expected to do so?
22 We're not trying to avoid responsibility. We're simply
23 encouraging a common sense approach to a workplace issue.
24 It doesn't appear that OSHA is really interested in a
25 public debate on the proposal, only in going through with

1 the motions.

2 If the Agency is certain its recommendations will
3 stand, they should be willing to allow an appropriate
4 period of time for public debate, much more than the 40
5 days they've currently allowed.

6 I do have some suggestions. First of all,
7 conduct a pilot program. As specifically suggested in the
8 state law, conduct a pilot program to measure each of the
9 rules requirement for effectiveness in injury and hazard
10 reduction, implementation cost, and ease the compliance
11 before implementation.

12 Provide a money back guarantee. If the
13 Department is unwilling to conduct a pilot program to
14 assure the effectiveness of the rules, then the Department
15 should agree to reimburse employers for the cost of
16 implementing rule related ergonomic initiatives that fail
17 to reduce injuries.

18 Provide technical assistance. Delay
19 implementation of the proposed rule until an adequate level
20 of education, technical assistance, and outreach is
21 available, not just work in progress.

22 Coordinate with other ergonomic related
23 programs. Prior to final rule adoption or implementation
24 coordinate rule making efforts with federal OSHA and
25 existing enforcement programs, such as the Accident

1 Prevention Program, Management Responsibilities, Personal
2 Protective Equipment, and others.

3 Establish clear compliance goals and
4 requirements. Provide real safe harbor protection for
5 employers who act in good faith.

6 Clarify workers' compensation issues. The
7 Department should clarify in writing that the mere
8 existence of a caution zone job or WMSD hazard cannot be
9 used to support a finding of job-related injury for the
10 purpose of workers' compensation claims.

11 Don't second-guess the employer. If an employer
12 makes a good faith effort to identify, prioritize, and
13 correct hazards, the Department should not substitute its
14 judgment for that of the employer, unless the Department
15 can show to a substantial certainty that its proposed
16 corrective actions will result in a greater reduction of
17 injury.

18 Restore employer flexibility. The rule goes too
19 far by giving extraordinary power to the employees to
20 select the measures to reduce hazard exposure.

21 At Crown Distributing we care greatly about the
22 safety of all our employees, and we consider each and every
23 one of them family. And I feel very, very strongly that
24 this is not the answer. Thank you.

25 MR. WALTERS: Thank you.

1 MR. WEEWIE: It's Jeff Weewie, W-e-e-w-i-e.
2 I'm also from Crown Distributing, along with Ms. Burke
3 here. I'm the operations manager.

4 And what I'm concerned about for Crown
5 Distributing is my particular future along with the rest of
6 our employees. If we have to modify the workplace to adapt
7 to our employees' needs or abilities -- our work, we
8 deliver beer, is what we do, we're in the beer business.

9 Our workplace is 1,235 different customers
10 throughout through out the county. Obviously, this is a
11 big economic impact if we have to try to modify 1,235
12 different locations, which also, by the way, is against the
13 law for us because we're in the liquor industry and we
14 can't provide that kind of service to our customers. So,
15 we would have to require them to do it for us. And,
16 obviously, they would just tell us to get lost and next
17 thing you know we're all out of work.

18 There's another part in here, you have a
19 determined weight limit of 90 pounds. A keg of beer weighs
20 162 pounds on average, and we have no control over that.
21 That's the manufacturers deal. I did hear from somebody
22 here earlier today that there might be a piece of equipment
23 that we might be able to utilize. You can trust me I will
24 go look that up and find that, but I don't think that --
25 this is beyond our control. There's nothing we can do

1 about it, so I think that should be revisited, the 90-pound
2 weight limit.

3 What else did I have written down here?

4 I guess just what a lot of people have said here
5 today. This stuff is subjective, a lot of it is. I'd like
6 to ask a simple question: Where is the worker's
7 responsibility in all of this? When we hire people in our
8 industry that have to be able to perform to a certain level
9 of physical capabilities, shouldn't that employee have the
10 responsibility to keep themselves in adequate working shape
11 to be able to perform those duties? Simple question.

12 Thanks for your time.

13 MR. WALTERS: Thank you.

14 Ms. Tong.

15 MS. TONG: I'm Lida, L-i-d-a, Tong, T-o-n-g,
16 on behalf of GTE here in Everett. And we have a very good
17 work safety program. We respect our employees and maintain
18 a safe workplace for them. And we have many programs in
19 place, including ergonomically correct programs in order to
20 protect their safety.

21 And our concern with this rule is that it's a one
22 size fits all for all industries across the board, which is
23 not necessarily what works. If rules are needed for a
24 specific industry, then address that industry, but being a
25 telecommunications provider, we just don't have all the

1 same concern -- we don't have the same bodily impacts as
2 some industries do.

3 And we have a good work record with our employees
4 in protecting their safety. So, a lot of what Ms. Burke
5 just went through in terms of what we propose what our
6 flaws with the rules, as proposed, is the same as what I
7 would have spoken to. So, in the interest of saving time,
8 I will not repeat those, but I would reiterate everything
9 that Ms. Burke has already said on the record.

10 So, the main point of this is, if an ergonomics
11 rule is needed, then first do a pilot study to determine if
12 the rule will actually accomplish what it is intended to
13 do, and it is something that can be complied with and
14 whether or not it would work for specific industries. It
15 may not work for specific industries and different rules
16 will be needed for different industries. So, I'm actually
17 here in opposition of the rule, just to make that clear.

18 MR. WALTERS: Thank you very much.

19 MR. WOOD: John Noble, Thomas Plummer, Frank
20 Prochaska.

21 MR. WALTERS: Mr. Noble, go ahead.

22 MR. NOBLE: Good afternoon, my name is John
23 Noble, N-o-b-l-e, and I reside in Everett here at 1812
24 Wetmore. I've heard a lot of testimony and so that will
25 make my testimony a little bit short, but I'm here as a

1 representative for carpenters, millwrights, pile drivers,
2 and interior system workers.

3 The testimony that you heard about the impact
4 that it has on a worker's life is I think really the bottom
5 line. My wife is a carpenter who got hurt in the industry,
6 not so much from a repetitive job, but because the job is
7 demanding on the human body. And so I know, firsthand, the
8 tragic impact that injured workers have on trying to raise
9 a family and trying to keep their lives together and
10 maintain their standard of living.

11 The other side of the issue that I'd like to talk
12 about is in our interior systems work you have individuals
13 that are required to lift heavy pieces of Sheetrock all day
14 long, over their heads, above their heads, in tight spaces,
15 and it's really rare to see a drywall hanger retire.
16 Typically, they're either washed out or move on in the
17 industry.

18 And I think that it's tragic to force a worker to
19 try to maintain a high standard because we can't design and
20 develop a system to either install smaller sheets of
21 Sheetrock or at least eliminate some of the requirements
22 for those in the industry.

23 The move by employers to try and be wary of this,
24 I'm very understanding of that, of what their issues are.
25 I used to be in the business, in the construction industry,

1 where ergonomics is looked at very, you know, hard, because
2 there's only just so many ways you can do things in the
3 construction industry. They haven't designed or developed
4 machinery to do a lot of that stuff for you, and some of it
5 is just plain hard work, and it's hard on the body.

6 But having been -- having had a business and also
7 being an organizer for the carpenters' union, where we have
8 to develop relationships with employers, I speak in favor
9 of this project only because I think that if we work as a
10 team, and when I say, labor and management, I mean that we
11 carry a lot of weight and a lot of desire.

12 Most of our workers on the job just want to get
13 it done the best way they can and go home at night, and the
14 employer pretty much wants the same thing. He doesn't want
15 anyone getting hurt. I think together as a team if we look
16 at this problem and unite our energies, we can find cost
17 efficient and effective ways to improve, to keep our
18 families healthy and keep our worker's healthy and also get
19 around the logistical problem of how do you compete in a
20 market where we're not -- where ergonomics is a tough --
21 that's a tough decision to make.

22 I could go on and talk about the tools of the
23 trade that we used, but it was mentioned before, you know,
24 that designing a better widget and then using it is
25 important and that requires everybody to do it. You can't

1 tell four employees over here, "You have to do this," and
2 let the competition not fall under the same category.

3 So, I do understand the employer's side. I do
4 speak in favor because I think that somebody has to start
5 the ball rolling here. We've got to start making some very
6 tough decisions because people are being tragically
7 affected by jobs that aren't ergonomically good for their
8 body. So, that's it.

9 MR. WALTERS: Thank you.

10 Mr. Plummer.

11 MR. PLUMMER: My name is Thomas Plummer,
12 P-l-u-m-m-e-r. I'm with the International Association of
13 Machinist and Aerospace Workers District 751, representing
14 approximately 34,000 employees in the State of Washington.

15 I am also a member of the Washington State
16 Federation of -- AFL-CIO WISHA Monitoring Committee, and I
17 served on the WISHA Ergonomics Rule Making Committee
18 Advisory Board.

19 I speak in favor of this rule. I spent a long
20 time with a lot of people from business, health, and other
21 labor organizations, and we discussed these problems at
22 great length. We took input from business and from labor
23 and from the healthcare specialists. And we tried to craft
24 a rule which would help to resolve the issues, be
25 preventive in nature, and not be too much of an impact on

1 the business community.

2 I congratulate the employers that I've heard
3 here, because by their accounts, each and everyone of them
4 has an ergonomic program and cares very deeply about their
5 employees. The issue is, is not those people who are doing
6 something like my company, the Boeing Company, but it's
7 those people who don't and won't.

8 To that end, I'd like to relay a little something
9 to you. I'm married and my wife's name is Marilyn. She's
10 a permanently disabled worker by an on-the-job
11 musculoskeletal disorder. She used to work in the Seattle
12 area hospital as a scheduling coordinator where she was
13 assigned to the food and nutrition department at that
14 hospital.

15 Her duties were to schedule all the meetings for
16 the hospital, about 150 meetings a week, including
17 furnishings, refreshments, and audio visual equipment.
18 This was accomplished primarily by the phone.

19 Additionally, she kept the food service employees
20 health cards up-to-date and did department accounting and
21 tally register receipts.

22 After she had been at the hospital for about 27
23 weeks she started to experience intermittent numbness and
24 pain in the lower arm and third and fourth and fifth
25 digits of her right hand. She requested that her work

1 station be improved with a computer desk, adjustable chair,
2 and a telephone headset. She got the chair.

3 The numbness and pain steadily increased over
4 time until she started to lose motor control of her right
5 hand. Finally, after 20 months of increasing pain and
6 numbness, she sought medical help.

7 Her GP sent her to an orthopedic specialist who
8 concluded that she had thoracic outlet syndrome, for which
9 he said there was no cure, and she'd just have to learn to
10 live with the pain. She sought a second opinion, not
11 telling the doctor for the second opinion what the
12 diagnosis by the first doctor was, and he came up with
13 exactly the same diagnosis, but he knew a specialist.

14 The specialist told her that her problems were
15 probably caused by the placement of the computer terminal
16 and the keyboard on a regular height table and the fact
17 that she was constantly cradling the phone on her right
18 shoulder, so that she could right down the meeting
19 information. He went on to say that the primary cause of
20 this was the phone that they wouldn't give her a headset
21 for.

22 She endured three operations to try to regain the
23 use of her right arm and reduce the constant pain. In the
24 first operation, they removed the first rib right side of
25 her body. This was to increase the size of the thoracic

1 outlet, so as to relieve the pressure on the nerves which
2 control the right hand and right arm. This operation had
3 some limited success. She regained control of the hand and
4 experienced a modest decrease -- an increase in strength in
5 that hand, but no real decrease in pain.

6 The second operation was in an achromaplasty and
7 subclavian decompression. This entailed grinding the bones
8 of the shoulder at the arm joint, and this reduced the pain
9 levels slightly.

10 The third operation was a pectoral tendotomy.
11 What they did was they cut her pectoral tendon in the hopes
12 to relieve the compression of the nerve bundle to the right
13 hand. This operation had no effect.

14 During all this, her employer used every means
15 possible to delay and deny her treatment. They filed
16 numerous appeals in an attempt to get L&I to deny the
17 claim, which L&I initially did. She had to file an appeal
18 with the Board of Appeals, which she won.

19 So, on top of all the pain and suffering she had
20 to go through, she also had to go through the emotional
21 harassment of her employer asserting that there was no --
22 that it was alternatively all in her head or that it was
23 caused off the job.

24 She was fortunate in one respect, though, the
25 company I work for has excellent medical insurance. They

1 paid for her medical bills. You see the only bills that
2 her hospital paid for were the bills they incurred for
3 their Independent Medical Examiners. They didn't even pay
4 for the tests that they required her to take numerous
5 times. My insurance paid for it.

6 Has it changed her life? What is the effect on
7 this person? She liked working. I would term her almost a
8 workaholic. She can no longer do that.

9 We were planning on sending her around the world
10 on our sailboat, but we can't do that because she cannot
11 handle the sails, steer the boat, or do any of those common
12 tasks. So, we feel it would be socially unacceptable for
13 us to endanger the lives of the Coast Guard if they had to
14 rescue her if something happened to me while we were
15 underway.

16 She can no longer vacuum floors. She can't even
17 go to the grocery store by herself because she can't reach
18 up to get the stuff off the shelves. She can't push the
19 cart. She has to take an antidepressant every night to
20 dull the pain center in her brain, so she can sleep.

21 Is this quality of life?

22 I might add that five years after this occurred
23 to her, the work station that she worked at is the same,
24 and they are hurting more employees. This is why we need
25 this rule to stop this kind of nonsense from happening for

1 the bad apples we have out there. Not all employers do
2 this, but if one employer does it and hurts a person like
3 this, that speaks to the reason why we need a rule.

4 I have also heard many times here a statement
5 saying we should wait until the National Academy of
6 Sciences study is completed. That would be the second
7 study issued by the -- commissioned by the Congress. You
8 see, they didn't like the answer they got on the first one,
9 which said that we need a rule.

10 So, they decided they would use delay tactics to
11 keep OSHA from issuing a rule and commissioned a second
12 study to take no less than two years, so they could deny
13 the people of this country any kind of relief from this
14 kind of injury. Thank you.

15 MR. WALTERS: Thank you for your time.

16 Mr. Prochaska.

17 MR. PROCHASA: My name is Frank Prochaska
18 P-r-o-c-h-a-s-k-a. I'm an area representative with the
19 Association of Western Pulp and Paper Workers, and I
20 represent, approximately, 1,500 paper workers in this
21 region of the state.

22 I want to talk about several things. I want to
23 talk about the impact that the workplaces have on
24 employees, and you've heard a lot of examples, and Tom's
25 example is a good one. There are numerous workers in the

1 plants that I represent, and used to work in, in fact, of
2 people walking around with scars on their wrists from
3 carpal tunnel surgery or shoulder problems or one situation
4 or another. And it's not because they go home and spend
5 seven hours every night playing Nintendo games. It's from
6 the workplace.

7 One particular example in the paper mill that I
8 used to work in, there was an employee whose job was to
9 stack product on a pallet, so it could be stretch-wrapped
10 and taken with a forklift and loaded on the truck.

11 This involved had a lot of pinching, picking the
12 packages up and turning and setting them down. She
13 developed a lot of pain in her hands and wrists. And she
14 went to the doctor, and the doctor, basically, told her it
15 was tendonitis. It was from repetitive pinching. There
16 really wasn't anything they could do about it, at that
17 point, other than take pain medication, antiinflammatories,
18 and try and change the job so it doesn't happen anymore.

19 So, she went back to work, took a lot of
20 ibuprofen. Someone still had to do that job, and one of
21 those people was hurt. She continued to do that for a
22 number of months until finally the pain got so bad, she
23 went back to the doctor. She figured that, all this time
24 they were just going to tell her the same thing, take
25 ibuprofen.

1 They did some x-rays, and by that time when you
2 looked at the x-rays, the bones in her hands and in her
3 thumb were no longer connected to the rest of the bones in
4 her hand. The ball and socket was completely worn away.
5 The bones for her thumb, both thumbs, were free-floating in
6 her hand.

7 This individual was off work for close to three
8 years. She is back to work now. She'll never ever be the
9 same. Many common tasks that most of us take for granted
10 until something like this will happen is difficult or
11 impossible for her, and she'll always be in pain. And all
12 that pain and suffering that she's endured and continuing
13 to endure was all to put packs of bathroom tissue on store
14 shelves, and that's a real tragedy.

15 Our industry, we're fairly lucky, we have
16 responsible employers who have stepped up to the plate and
17 have worked with the employees to try and find fixes. None
18 of us are professional ergonomists, but we can do and have
19 done some basic things by looking at some basic hazards,
20 which is exactly the kind of risk factors that are
21 identified in this rule, looking at repetitive lifting,
22 heavy lifting, pinching, repetitive motion, that sort of
23 things.

24 I want to talk about some of the fixes that just
25 looking at those simple risk factors can achieve. Paper is

1 wound up on large cardboard tubes or cores on high-speed
2 machines. These cores were 12 inches in diameter, and some
3 of them were up to nine feet long and very heavy. After
4 the paper is run off these rolls, the operators of the
5 machine had to take those cores off, carry them over and
6 load them in the cart to be taken back to the paper
7 machines to be used.

8 After a lot of looking at possible solutions,
9 ways to lift different, seeing if we can get something to
10 help people lift these things, they decided they'll replace
11 the shafts to smaller diameter shafts, use smaller diameter
12 cores. The cores would be lighter. It wouldn't be as much
13 of a hazard. That incurred some one-time cost. They had
14 to replace some sizeable big steel shafts that have to be
15 engineered and balanced for high-speed rotation. It cost
16 them money.

17 Not only did that reduce injuries and reduce the
18 cost to the company, as far as direct and indirect costs
19 associated with those industries, from that one-time
20 investment there's been continuous cost savings because now
21 the cores are smaller, there's less material, they're
22 cheaper to make, and they're cheaper to purchase, and when
23 they wear out they're cheaper to dispose of.

24 Various companies in the union worked to change
25 job ladders in different departments to make it possible

1 for employees to rotate through hazardous jobs that can't
2 be effectively modified in other manners.

3 Another example is issues that employees have had
4 with lift trucks, powered industrial trucks, that have come
5 from the either the manufacturer with controls that are
6 difficult for smaller drivers to manipulate, either they
7 require too much hand or foot pressure or too much
8 extension and rotation. By going back and working with the
9 vendors who supply the trucks in the first place, we've
10 been able to replace some of those controls fairly cheaply
11 with controls that that require less stress on individual
12 parts of individual's bodies, and we've reduced injuries.

13 We've also had to learn lessons more than once.
14 There was an issue on a paper machine, again, lifting cores
15 onto these big shafts. People were getting injured,
16 shoulder injuries, hand injuries from repeatedly having to
17 lift these cores even though they were a smaller diameter
18 in that particular situation. The answer was simple
19 enough, lower the shaft down so you're not lifting it over
20 your head.

21 Another mechanism was put in place relatively
22 inexpensively to enable that to happen. All the employees
23 were trained that way. The employees adopted that method
24 of doing that particular task, and injuries went away.

25 After a number of years, different people rotated

1 through those positions and had to do those tasks, but what
2 we didn't do was maintain that training. Not only did we
3 eliminate the injuries when we fixed the job, when we had
4 employees, new employees go into that task who didn't know
5 that was the right thing and reverted to that old method of
6 doing it, the injuries reappeared.

7 There might be studies out there that can talk
8 about associating various types of hazards to ergonomic
9 related injuries. In specific cases and specific work
10 sites in real word situations we don't have association, we
11 have causation. We have demonstrated that the hazards
12 produce injuries.

13 I've heard a number of objections over the last
14 several months and up to today, the previous testimony,
15 about why this rule won't work or can't work or shouldn't
16 be let to work. I've heard there's not enough evidence,
17 that everyone exposed to these hazards aren't injured, so
18 why make everybody mitigate the hazards?

19 Again, we can do more studies, we can argue about
20 numbers for the next ten years, and I'm sure some people
21 probably will, but again, we have causation, not just
22 association. People argued about the statistics for many
23 years when asbestos became an issue, chemicals and
24 carcinogens became issues, as far as workplace issues. And
25 in the public sector we are still hearing it over the

1 tobacco issue.

2 I've heard it's too expensive. Many of the fixes
3 cost absolutely nothing. For the fixes that do cost money,
4 it's an investment in the company's bottom line. These
5 investments reduce workplace injuries, which reduce worker
6 compensation costs, which reduce all the indirect cost,
7 which make the company more viable, and which make it more
8 likely to provide sustenance for the worker and his family
9 because that company is going to be there and continue to
10 be there.

11 There's the feasibility exception built into the
12 rule, which provides for the fact that if there's hazards
13 that simply cannot be feasibly fixed economically or
14 technologically, they're not going to be expected to be
15 fixed, until it becomes economically or technology
16 feasible. At any rate, it cannot be socially acceptable in
17 a modern society to talk about profit by injuring workers.

18 I've also heard that this rule is too much
19 dictation by WISHA, that WISHA will control your workplace
20 in some way, that they're going to be able to come in and
21 dictate exactly how this is going to work or that is going
22 to work and they'll tell you to modify this or modify
23 that.

24 The rule itself is very flexible; flexibility is
25 built right into it. It's a performance-based approach.

1 There are not a certain set of hoops you have to jump
2 through whether you have this hazard or not and this
3 hazards. It's based on whether those hazards are there and
4 if they're there, what can you do to mitigate those
5 hazards.

6 I, myself, spent eight years in the mill that I
7 came out of working as an employee with management, as far
8 as WISHA compliance programs, both in training employees
9 and finding solutions to help bring the workplace into
10 compliance with WISHA regulations.

11 Based on that experience, my own personal
12 experience, I can tell you that the rule that we're talking
13 about today is written in a much more user friendly manner
14 than many existing rules are. And this rule would actually
15 be easier to understand and implement than many other ones
16 currently on the books.

17 This rule addresses a tremendous problem in
18 today's workplace. There are a lot of good aspects of the
19 rule, and I am in favor of this rule. It's based on
20 hazards, and it's preventative. It's flexible and easy to
21 understand for employers and for the employee committees.

22 We talked a little bit about definitions earlier
23 this morning. If someone wants to pervert anything in
24 writing, they're going to be able to do that, whether that
25 piece of writing is six pages long or 60 pages long. The

1 definitions as they're written are easy to understand and
2 interpret, and you could add another 60 pages to those
3 definitions and people will still be able to find a
4 loophole here or there that they will be able to draw some
5 confusion around.

6 It addresses employee involvement, which is
7 particularly important. The people there on the floor
8 every day, day in and day out, are the people most familiar
9 with the tasks involved and the hazards involved. They
10 also have the most to gain from implementation of this rule
11 or the most to lose if this rule is not implemented and not
12 followed.

13 It certainly isn't a perfect rule. There are
14 many improvements that could be made. There is a long
15 phase-in period, which in some respects is good, but this
16 rule is many, many years overdue, and to put a compliance
17 data out there for some employers, two or three or four
18 years out, is probably not responsible.

19 All in all, this is a good rule, and it's a good
20 place to start. The rule is needed to maintain and
21 increase the focus of the employers who have already begun
22 to address these issues. It's also need to prevent
23 responsible employers who are already addressing these
24 issues from being penalized by the action of the
25 irresponsible employers, either by inheriting workers that

1 have been needlessly injured and will have continuing
2 problems in the future, or by subsidizing irresponsible
3 employers through the Worker Compensation State Fund. And
4 most importantly, it's needed to protect workers and the
5 quality of the lives of their families.

6 MR. WALTERS: Thank you. Michael Hatfield,
7 Francis Balunsat, and Pat Connelly. And then John Seltzer,
8 Ed Rubatino. Is John Seltzer here? Mr. Ed Rubatino?

9 Mr. Hatfield.

10 MR. HATFIELD: My name is a Michael
11 Hatfield, H-a-t-f-i-e-l-d. I am the president of the
12 United Food and Commercial Workers Local 44 out of
13 Mount Vernon. We represent mainly the grocery industry,
14 but also deal with meat packing and seafood processing in
15 Whatcom, Skagit, Island, Jefferson, Clallam, and Snohomish
16 Counties.

17 I come here today to speak to you in support of
18 the rule. I will be brief as I can orally and reserve time
19 in written statements to make other comments.

20 I just wanted to say this. I applaud the
21 committee. I applaud L&I for the work that they've done.
22 This rule is long overdue. I know we've heard
23 circumstances here that we need other studies. We do not.
24 The members of our local are certainly convinced that there
25 is enough evidence now, in the grocery stores alone.

1 I listened patiently through some of the comments
2 that were made regarding the individual, our sister from
3 one of the Seattle locals who was a checker that somehow it
4 was her eight hours or 7 1/2 hours of playing video games
5 at home that caused that injury. I know of no video game,
6 nor I would want to play one, quite frankly, where you have
7 to lift over 6,000 pounds in given day, which a checker
8 does, or to move your wrists and hands 600 times within an
9 hour. It's that type of attitude I think that reinforces,
10 at least in my mind, the reason that this rule needs to go
11 in.

12 It is certainly fair. The three F's that I heard
13 earlier are a very good synopsis of this rule. It's fair;
14 it's feasible. The technology exist to correct some of
15 these problems. I don't need any more evidence to show me
16 that injuries in these checks stands are being caused
17 exactly by those very check stands.

18 The greatest injustice isn't the injuries
19 themselves, as I believe they are very tragic in the
20 experiences I've dealt with, with our members who have had
21 carpal tunnel. The greatest tragedy would be for us to sit
22 and not do anything at all.

23 I applaud you again for the work that you've
24 done, and it's time that we adopt this rule.

25 Thank you.

1 MR. WALTERS: Thank you. Mr. Connelly.

2 Mr. Seltzer.

3 MR. SELTZER: My name is John Seltzer,
4 S-e-l-t-z-e-r. I am a senior safety engineer for the Arco
5 Products Company at the Cherry Point Refinery in Blaine,
6 Washington.

7 And Arco opposes these regulations, as written,
8 because they don't allow any exclusions for firms that
9 already have a successful program. We have 450 employees,
10 and over the last seven years, we've only experienced six
11 ergonomic strains. We enjoy a very low frequency rate,
12 OSHA recordable frequency rate of 1 to 1.5. We have
13 received numerous awards from state and federal agencies on
14 the successes of our program. In 1989, we didn't have any
15 strains at all.

16 The rule as written will cause us to commit
17 resources to solve a nonexistent problem. We have
18 literally hundreds of caution zoned jobs that we would have
19 to analyze to prove that we were already mitigating them.
20 We would like the law to recognize that we already have an
21 existing, successful program and not penalize us.

22 We believe there is a need to do something about
23 ergonomic problems, but don't believe there is a need to
24 penalize companies who already have successful programs.

25 We would like to see the law incorporate some

1 means to determine whether or not existing programs are
2 already adequate without the need to go through and analyze
3 caution zone jobs. That's all I have.

4 MR. WALTERS: Thank you.

5 Mr. Rubatino.

6 MR. RUBATINO: Thank you. Ed Rubatino,
7 R-u-b-a-t-i-n-o. I'm an employer in Everett. I have
8 Rubatino Refuge Removal. First off, I don't think any
9 employer wants to see any of their employees injured. So,
10 in that respect, we comment and recognize your work. We
11 have made many changes in the workplace and in our industry
12 over the years, and I know we need to make some more;
13 however, I do believe that rules should be industry
14 specific.

15 We, as you know, our workplace is your
16 neighborhood. We do not have controls over what you put in
17 the garbage can. We can I guess make a limit and start
18 limiting the cans to five pounds or ten pounds or some
19 magic number and asking our customers to have many more
20 cans and get a lot better price for our services, but we
21 try to balance that. I do believe you should have some
22 pilot programs, so that we can identify the cause of
23 injuries versus speculate.

24 I, as an individual, my first thought as I read
25 these rules was, you know, our nation is accused of not

1 being physically fit. I am nervous that I need to put an
2 employee through I guess a physical fit training program
3 either before I hire him or after I hire him to see that he
4 might eliminate some much these causes.

5 As I listen to many complaints, it seems that the
6 employer ends up being the responsible party for the
7 employee's every action, and I do believe the employees
8 have equal responsibilities.

9 I, personally -- excuse me for a minute. I think
10 I really stress the fact that we need to be industry
11 specific, that indicate what problems we have, what problem
12 we can avoid. Obviously, when I read something about
13 frequent, heavy lifting, in the garbage business, it rings
14 a bell.

15 I did read the rules. I have some real problems
16 in how they would be enforced, and rather than get into big
17 technical things for you, let me say that I agree with a
18 lot of the complaints that were expressed and will limit my
19 comments to that, unless you have questions for me.

20 MR. WALTERS: No. Well, thank you for
21 coming.

22 MR. RUBATINO: You're welcome.

23 MR. WALTERS: Well, I think that's it. Is
24 there anyone else who would like to testify? Please come
25 forward and state your name, for the record, please.

1 MR. DOWNS: I'm Pat Downs, president of
2 Local 883 Transit Union, Everett, Washington. I've
3 listened to a lot of testimony today.

4 I've reviewed these rules, and I find that they
5 seem fair and adequate in their content in regard to the
6 employers. I noticed a paragraph here that highlights for
7 employers that's a short one that says, "Employers may
8 choose their own method and criteria for identifying and
9 reducing the muscular hazards, or they may use L&I specific
10 method or criteria." That seems pretty open to me, and it
11 seems like the complaints that they may have can be
12 addressed just by using your rules.

13 I applaud what you've done. I think it's a good
14 step in the performance aspects for safety standards in
15 industries wide and broad throughout this state.

16 And that's about all I want to say about it.

17 MR. WALTERS: Great. Thank you very much,
18 Mr. Downs. Make sure that you sign the sign-in sheet.

19 MR. DOWNS: I did.

20 MR. WALTERS: Thank you very much.

21 * * *

22 C L O S I N G C O M M E N T S

23 MR. WALTERS: I'd just like to remind
24 everyone that the deadline for written comments is
25 February 14th at 5 o'clock. And I would like to thank

1 everyone who came to testify today.

2 This meeting is adjourned at 4:31 p.m.

3 Thank you.

4 (Hearing adjourned

5 at 4:31 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned officer of the Court, under my commission as a Notary Public in and for the State of Washington, hereby certify that this is a true transcript of the Public Hearing regarding Ergonomics; that the said hearing was taken stenographically before me and thereafter transcribed under my direction.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 24th of January, 2000.

Wade J. Johnson
NOTARY PUBLIC in and for the State
of Washington, residing at Renton.
My commission expires 11/9/02.